Association of Bay Area Governments
Bay Area Air Quality Management District
Metropolitan Transportation Commission

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Joint Policy Committee

April 15, 2005
10:00 a.m. to 12:00 Noon
MetroCenter Auditorium
101 Eighth Street
Oakland, California

AGENDA

1.	Welcome, Introductions and Opening Remarks	
2.	Approval of Joint Policy Committee Meeting Minutes of March 25, 2005 (attached)	Action
3.	Competition for Land Use: Projections, Forecasts, Monitoring, Measurement (attached) Several issues involving competing land uses have been brought before the JPC: whether there is adequate space to accommodate goods movement; forecasts of, and policies to encourage transit oriented development; land uses that should be buffered from sensitive receptors to air quality. Paul Fassinger, ABAG Research Director, will describe data on existing land use and *Projections* forecasts for some specific geographic areas of concern. Current monitoring efforts will be explained. Recommendations for additional monitoring and measurement will be offered for the JPC to consider.	Action
4.	TOD Policy Choices (attached) Staff will seek the Committee's preferences relative to a set of choices required to finalize the JPC's Transit-Oriented Development recommendations to the Metropolitan Transportation Commission.	Action
5.	Regional Housing Needs Allocation Secretary of Business, Transportation and Housing and new JPC member, Sunne Wright McPeak will talk about State proposals to change the RHNA process.	Discussion
6.	Joint Policy Committee Operating Rules and Procedures (attached) The attached memo, prepared as the result of the Committee's March 25th request, documents the JPC's current operating rules and procedures.	Information

7. Future Agenda Items — Information

In consideration of agenda length, the following four items are provided for information only at this time. They will be resubmitted for discussion and action on a future agenda.

7.1 The JPC in Relation to Pre-existing ABAG, BAAQMD and MTC Planning Committees (attached)

The Chair of the JPC has requested a report from the Executive Director of ABAG, the Executive Director of MTC, BAAQMD's Executive Officer and the Regional Planning Program Director on how the JPC's mandate relates to the mandates of existing regional planning committees at each of the three member agencies. The attached memorandum responds. This item was deferred from the meeting of March 25th.

7.2 Fiscal Reform and Smart Growth (attached)

At its meeting of March 25th, the JPC requested a report back at its next meeting on possibilities for pursuing smart-growth-related fiscal reform through the current seating of the State Legislature. This is that report.

7.3 Regional Planning Work Program, First Six-Month Progress Report (attached)

This memo summarizes what has been accomplished during the first six months of the Regional Planning Work Program approved by the JPC in September of 2004, and it recommends priorities for the next six months.

7.4 Smart-Growth Incentives for Neighborhoods (attached)

The second in a series of three inventories, this memo describes incentives potentially available to assist neighborhoods in accepting infill development and associated change.

8. Other Business

9. Public Comment

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Joint Policy Committee

Minutes of the Meeting of March 25, 2005
Held at 10:00 AM in the Auditorium, MetroCenter, Oakland

Attendance:

ABAG Members:
- Jane Brunner
- Mark Green
- Scott Haggerty, Ch.
- Steve Rabinowitsh
- Gwen Regalia

BAAQMD Members:
- Mark DeSaulnier
- Erin Garner
- Pamela Torliatt
- Gayle Uilkema

MTC Members:
- Bill Dodd
- Steve Kinsey
- Sue Lempert
- John McLemore
- Jon Rubin
- Shelia Young

ABAG Staff:
- Paul Fassinger
- Henry Gardner
- Patricia Jones
- Janet McBride
- Christy Rivierre

BAAQMD Staff:
- Jack Broadbent
- Henry Hilken
- Jean Roggenkamp

MTC Staff:
- Steve Heminger
- Doug Kimsey
- Therese McMillan

Other:
- Linda Craig, League of Women Voters
- Duane DeWitt
- Jean Finney, Caltrans, District 4
- Tony Fisher, NUMMI
- Richard Hedges, EDAC & Advisory Council
- Sherman Lewis, Sierra Club
- Peter Lydon, SPUR
- Steve Lowe, WOCA

JPC Staff:
- Ted Droettboom

1. Welcome and Opening Remarks

   The chair opened the meeting with a welcome.

2. Approval of Joint Policy Committee Meeting Minutes of February 25, 2005

   The minutes of the previous meeting were approved.

3. Bay Area Ozone Strategy and the Role of Growth in Pollution Generation and Control

   Henry Hilken talked about the Bay Area Ozone Strategy, its current status and the air district's interest in transportation and smart growth. Pending

3. Bay Area Ozone Strategy and the Role of Growth in Pollution Generation and Control

Henry Hilken talked about the Bay Area Ozone Strategy, its current status and the air district's interest in transportation and smart growth. Pending changes in federal regulations were identified. Mr. Hilken's PowerPoint presentation is on the JPC web site: http://www.abag.ca.gov/jointpolicy/.

It discussion, it was noted that the region had made tremendous progress over the past few decades in dealing with air pollution issues to the extent that we had reached attainment of the Federal one-hour ozone standard and were very close to attaining the new eight-hour standard. However, we were about to be awarded an "F" from the national office of the American Lung Association due to excedence of its particulate matter standard in Concord on Christmas day. It was agreed that the Air District would draft a letter for the three agencies to send to the ALA, urging more reasonableness in its characterization of the region and its air pollution achievements.

In response to a question on the relative efficacy of regional pollution control measures and automobile fleet standards: it was observed that historically fleet standards have had a much larger impact, but that we may be reaching a plateau in our ability to achieve some regional pollution improvements through that means and other measures may become relatively more important. Fuel economy will, however, continue to have a very large influence over the release of green house gases, which are almost solely a function of the amount of fuel burned.

A perceived conflict between clean air objectives and development near transportation corridors was noted, though it was also noted that this was less of an issue for development near electrified transit corridors than near highways where gasoline and diesel vehicles predominated. Further the overall pollution reducing effect of reduced vehicle miles, resulting from shorter distances and more mass transit trips, needed to be considered as part of the overall pollution picture. The benefit of working with local communities on local pollution issues was noted as was the necessity to avoid land use conflicts which resulted in greater problems for sensitive receptors.

The potential impact of ozone attainment on Federal transportation funding was queried. CMAQ funds will be available for air quality maintenance as well for reaching attainment. We should continue to receive these funds though perhaps in lesser quantity than in the past as the priority is for regions which have yet to reach their air-quality objectives.

It was agreed that future JPC agendas would include discussions on local strategies to deal with global climate change and the problem of diesel emissions.

4. Smart-Growth Incentives for Local Government

Ted Droettboom presented a summary of the staff report on this matter.

Discussion clarified the report's recommendation: It is not the intent of the recommendation to establish a new agency or physical facility to organize and deliver incentive information in a passive manner. It is the recommendation's intent to use existing regional resources to establish active connections with local governments for the purpose of assisting them in identifying and packaging incentives that will assist these local governments in pursuing smart growth initiatives. The regional resource will emphasize outreach.

Discussion also clarified that the existing TLC program could be used to assist community involvement in the planning process through charettes and other participation techniques. In fact, community participation is a fundamental objective of TLC funding. It was also noted that the TLC program has been over-subscribed, but funding has been tripled in the new Regional Transportation Plan (RTP) to $30 million a year.

In response to a question about using general transportation funding as a smart-growth incentive, it was observed that eighty percent of the funds in the current plan go to maintenance and improvement of existing infrastructure and that most of this is in existing communities which are the focus of smart-growth infill interest. The proposed TOD policy will also focus transportation funds on smart-growth objectives.

There was extensive discussion on the incentive/disincentive impact of the current local-government tax system, and a report back on pursuing fiscal reform through the current seating of state legislature was requested for the next JPC meeting.

The Committee approved the following recommendation:

> THAT the JPC request that, as part of their joint planning resource review, ABAG, BAAQMD and MTC address the possibility of providing a centralized facility to assist Bay Area local governments in identifying, packaging and accessing the smart-growth incentives currently and potentially available from a variety of sources.

5. The JPC in Relation to Pre-existing ABAG, BAAQMD and MTC Planning Committees

The Chair deferred this item to the next meeting.

6. Other Business

A document detailing the Committee's rules and procedures was requested for the next meeting.

7. Public Comment

Public comment was offered relative to the scheduled agenda items and is incorporated in the summary of those items.

ITEM 3

From: Paul Fassinger, ABAG Research Director
To: Joint Policy Committee
Re: Competition for Land Use: Projections Forecasts, Monitoring, Measurement
Date: April 6, 2005

Summary:

Several issues involving competing land uses have been brought before the JPC: Whether there is adequate space to accommodate goods movement; forecasts of, and policies to encourage Transit-Oriented Development (TOD); land uses that should be buffered from sensitive receptors to air quality. These issues appear to fit into the existing Smart Growth monitoring and Projections forecasting process. However, more explicit measurement and monitoring specific to these issues may be needed. Potential recommendations for additional monitoring and measurement are offered for the JPC to consider.

Land Use Issues That Have Come Before the JPC

A variety of issues presented to the JPC have suggested the need for changes to land use planning policies. The goods movement study described at the February 25th meeting identifies the need for a goods movement/industrial component to regional land use planning. It also notes the importance of land use conflicts around major airports and seaports that could threaten the viability of critical regional gateway facilities. In addition there is a concern that land currently occupied by manufacturing facilities is being converted to residential uses.

A brief review of ABAG's land use database does not convince us that there is a clear conflict with either current or forecasted development around major gateway facilities. However, significant potential growth is expected in places like West Oakland. Important conflicts could occur.

Presentations on transit oriented development have described potential policies and MTC's TOD study which showed the important focus of future development that TOD is expected to become. Regional policies promote growth in both TOD areas and in existing urban areas. Whether land use policies and plans are becoming more supportive of this pattern of development is central to our continuing monitoring activities.

At the last meeting the BAAQMD described its ozone strategy. The discussion included the importance of considering whether land use patterns put sensitive receptors near significant local sources of pollution. A draft hand book by the California Environmental

Protection Agency on air quality and land use outlines recommendations for appropriate land use. It is not clear that this sort of issue was explicitly considered when regional land use data was developed.

Recommendations

The existing regional monitoring and Projections forecasting process tries to consider these types of issues. These issues could be more explicitly considered in the monitoring and recommendations that are made to ABAG's Executive Board about the policy assumptions that go into future Projections forecasts.

The JPC should recommend to ABAG that some explicit measurements be developed and that its Executive Board should make specific findings about the consistency of its forecast with: industrial and goods movement needs in the region, with the expected level of TOD and infill development in the region; and with policies that recognize conflicts between sensitive air quality receptors and certain land uses.

ITEM 4

METROPOLITAN
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Memorandum

TO: Joint Policy Committee DATE: April 8, 2005

FR: Executive Director

RE: MTC's Transit Oriented Development (TOD) Policy

At the Joint Policy Committee meeting on April 15th we would like your input on several important policy issues that have been raised as part of MTC's larger efforts to develop a new transit-oriented development policy for regional transit expansion projects under Resolution 3434. The JPC has provided important feedback to date on the initial development of the TOD policy, and staff is seeking additional input from the committee—in addition to other stakeholders and our own Commission—before we release a final draft of the policy for public review and comment in May. The policy issues discussed below (and summarized in Attachment A) represent some of the key issues that have been raised as part of our outreach on the TOD policy over the last five months.

Background

Many of you are by now well aware of the origins, rationale and context for the development of our TOD policy. Briefly stated, the Commission adopted the latest Regional Transit Expansion Plan for the region in 2001 – known as Resolution 3434 – and issued a strong directive to staff to develop a policy that would condition the allocation of regional discretionary funds for transit expansion projects on supportive local land use plans and policies. In December 2003, MTC adopted a five-point Transportation/Land Use Platform that reconfirmed the Commission's commitment to conditioning funds under Resolution 3434 on supportive land use. Since that time, staff has been developing the TOD policy with the JPC and input from numerous stakeholders.

In November 2004, staff reviewed a draft white paper with the JPC that suggested an approach to implementing a regional TOD policy. The white paper proposes a TOD policy approach that is based on a set of assumptions that are important to re-confirm before proceeding into the remaining policy questions. The draft TOD policy assumes the following:

(a) A corridor approach to land use thresholds for housing and employment densities along corridors that allows station-by-station variation and flexibility;

(b) Land use thresholds that vary by mode of transit, with more capital-intensive projects like BART extensions and light rail expansions having higher land use expectations;

(c) Land use thresholds that are based on both what's already on the ground and what local jurisdictions plan for in the future;

(d) A requirement to prepare individuall station area plans—which MTC would help fund— to plan for increased land use densities, access, design standards, parking and other amenities based on the unique circumstances of each station area and city;

(e) Creation of Corridor Working Groups that would bring together local government staff, transit agencies, congestion management agencies and other key stakeholders with an interest in TOD along the corridor to help develop station area plans to meet the MTC corridor-wide land use thresholds. The draft TOD policy assumes that the CMAs will take a lead role in organizing these working groups.

Key Policy Questions

Following the release of our draft TOD policy white paper in November 2004, staff has been soliciting input from partner agencies, interest groups and local governments around the region and in the key Resolution 3434 corridors that will be affected by this policy. The following key issues are some of the more important policy questions that staff believes need to be resolved in order to proceed with development of a final policy (also see Attachment A for a summary of the following policy issues and the relevant options proposed by staff for each issue).

I. Application of the Policy

MTC Funding Leverage

(1) The Commission's leverage for the TOD policy is financial, based on the fact that regional discretionary dollars are being used to fund the Resolution 3434 projects. But should MTC's TOD policy apply to all Resolution 3434 projects regardless of how much regional discretionary funding the project requires? Or should there be a threshold for the portion of the total project cost that is regionally funded—a specific dollar amount or percentage—below which the regional TOD policy wouldn't apply?

(2) In addition to potentially exempting projects from the Resolution 3434 TOD policy that only use a small amount of regional funding, should an exemption also be extended to projects that are more limited in scope and don't include the addition of any new stations, such as electrification projects and service upgrades along existing corridors?

II. Corridor Land Use Thresholds

(3) Land Use Measures

The draft TOD policy white paper suggests two options for the corridor level thresholds—a housing only threshold and a combined jobs plus housing threshold. Members of the JPC and others have expressed interest in maintaining a requirement for some level of employment to be planned for in addition to housing in the corridors. Yet some local jurisdictions have expressed concern over their ability to measure future employment in station areas. What are the most appropriate threshold measures for the corridors?

(4) Treatment of Affordable Housing

Much of the research around TOD suggests that lower-income households are much more likely to ride transit. Another key policy issue for the Commission to consider is to what extent affordable housing should be part of MTC's larger TOD policy. Should there be requirements for affordable housing either in the Station Area Plans or at the corridor level as part of the thresholds? Alternatively, can there be some sort of incentive or bonus provided for affordable housing as part of the corridor thresholds?

(5) Landbanking

While some frown on big box retail, large parking lots and auto dealerships around transit stations, others see it as a form of landbanking—providing an interim use that will eventually reach its life expectancy and can be turned over into higher density residential or employment uses over the coming decades. Some have suggested that MTC should allow this concept of "landbanking" where current market conditions aren't strong enough to meet the type of housing or employment densities called for in MTC's corridor-level thresholds. Still others will point to the difficulties of redeveloping the parking lots around BART stations over the last two decades as evidence that landbanking is difficult at best. How should MTC treat the concept of landbanking in the TOD policy? Should the policy allow limited-term landbanking, providing the necessary local policies are in place to allow for future housing or employment densities that support the corridor thresholds? Can the possibility of future housing on an existing or near term commercial site be used to meet the corridorwide thresholds?

III. Station Area Plans

(6) Funding for Station Area Plans

Included in the Commission's five-point Transportation/Land Use Platform adopted in December 2003 was a commitment to use a portion of regional funds available under the Transportation for Livable Communities /Housing Incentive Program (TLC/HIP) to help finance local Station Area Plans in Resolution 3434 corridors. Several stakeholders have suggested that these Station Area Planning funds should also be available for redeveloping existing station areas that are not part of Resolution 3434 but have strong potential for transit-oriented development. Should MTC restrict Station Area Planning funds to Resolution 3434 corridors to help local jurisdictions meet the proposed land use thresholds? Or should MTC Station Area Planning funds be available for all stations in Resolution 3434 corridors? Or should MTC allow existing station areas around the region also to compete for the funds? What portion of future regional TLC/HIP funding should be dedicated to Station Area Plans? Should the CMAs be asked to use a portion of the county TLC/HIP funding to supplement the regional commitment to Station Area Plans?

(7) Regional TOD Design Standards

Should MTC develop its own regional TOD design standards that any recipients of the Station Area Planning grants must adhere to? Or should MTC rely on other TOD design guidelines that already exist – some published by other Bay Area transit agencies such as BART, Caltrain and VTA – and use them as suggested guidelines that local jurisdictions can use?

(8) Parking Management

As many of you know and as much of the research also suggests, parking management is also a critical component of any successful TOD. The establishment of maximum parking requirements, shared parking, and pricing of parking in both residential and commercial developments can be important tools in an overall TOD strategy for a station area. But what requirements or incentives, if any, should MTC provide around parking as part of the overall TOD policy? Should MTC require use of regionally developed TOD parking policies within station areas, or require use of locally developed TOD parking policies? Or should MTC merely suggest a menu of parking policies that local jurisdictions could consider, but avoid requiring either standards or studies?

(9) Auto-Dependent Uses

Some TOD experts also suggest that larger-scale auto-dependent uses like big box retail are incompatible with transit-oriented developments. Still others suggest that big box retail can co-exist comfortably in a TOD as long as it incorporates pedestrian-friendly design elements and minimizes land dedicated to parking. Should MTC incorporate any requirements for local jurisdictions to prohibit auto-dependent uses in the TOD policy? Should MTC ask local jurisdictions to incorporate designs that are more inviting and safer for pedestrians such as smaller block sizes and wider sidewalks? Or should MTC defer to local decision-making on this issue and offer only suggested guidelines for local jurisdictions to follow as part of their station area planning process?

Next Steps on the TOD Policy

These key policy issues will provide a framework for our discussion at the Commission retreat on April 13, 2005. We continue to extend the offer for our staff to present the overall TOD policy to any relevant boards, commissions or councils over the next two months.

Our timetable (see Attachment B) suggests returning to the JPC with a revised policy at your May meeting and final action by the Commission the TOD policy in June 2005 as part of an overall revision to Resolution 3434. We intend to do everything we can before then to make sure all affected parties understand the direction and implications of our efforts. We look forward to a productive discussion on April 15th.

Steve Heminger

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ATTACHMENT B: TOD POLICY SCHEDULE

Item	Event	Date
Review Key TOD Policy Issues	Commission Workshop	April 13, 2005
	Joint Policy Committee	April 15, 2005
Release Final Draft of TOD Policy	MTC Planning & Ops Committee	May 13, 2005
Review Final Draft of TOD Policy	Joint Policy Committee	May 27, 2005
Final Action on TOD Policy/Res 3434	MTC Planning & Ops Committee	June 10, 2005
Final Action on TOD Policy/Res 3434	Commission	June 22, 2005

ATTACHMENT A: MTC's TOD POLICY – KEY ISSUES MATRIX

POLICY ISSUE	Framing Question	Option 1	Option 2	Option 3
Application of the Policy				
1. MTC's Funding Leverage	*Which projects should the TOD policy apply to?*	All Res. 3434 projects receiving regional discretionary funding	Only projects that use more than a certain amount/percentage of regional discretionary funding	
2. Type of Project	*Which types of projects should the TOD policy apply to?*	All types of Res. 3434 improvements (transit service upgrades, expansions and extensions)	Transit projects that expand service by enhancements or extensions	Only physical transit extensions
Corridor Level Thresholds				
3. Thresholds: Housing / Job	*What are the appropriate housing and/or job measures for the corridor level thresholds?*	One combined measure for jobs and housing	A separate measure for housing and a separate measure for jobs	Only a measure for housing
4. Affordable Housing	*Should the TOD policy require affordable housing in the corridors?*	Require a minimum of new housing to be affordable	Give affordable housing additional weight toward meeting corridor housing threshold	Do not require or weight affordable housing
5. Landbanking	*Should the TOD policy allow landbanking to count toward the thresholds?*	Allow limited future interim uses with a specific plan and time-specified conversion plan	Only allow parking lots or other non-building uses as future interim use	Do not allow land banking to count toward the thresholds
Station Area Plans				
6. Funding	*Should MTC's station area planning grants be restricted to Resolution 3434 corridors?*	Restrict Station Area Planning Grants to stations in Res. 3434 corridors that don't currently meet the land use thresholds	Make Station Area Planning Grants available to stations in all Res. 3434 corridors	Make Station Area Planning Grants available to both Res. 3434 and existing stations
7. Design Guidelines	*Should the station area planning grants include design guidelines?*	Require use of regional design standards	Require use of relevant transit agency standards or other specified design guidelines	Do not require use of design guidelines
8. Parking Management	*Should the policy require local parking policies for land uses close to transit stations, e.g. maximum ratios and pricing?*	Require use of regionally developed parking policies for transit station areas	Require use of locally developed parking policies for transit station areas	Do not require TOD-oriented parking policies
9. Auto-Dependent Uses	*Should the TOD policy prohibit auto-dependent uses, e.g. big box retail?*	Require local jurisdictions to prohibit auto-dependent uses in station areas	Require local jurisdictions to adopt pedestrian friendly design standards such as small block sizes and wider sidewalks	Do not prohibit any specific land uses or require any specific pedestrian design standards

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Joint Policy Committee / Regional Planning Program

Date: March 27, 2005

To: Joint Policy Committee

From: Regional Planning Program Director

Subject: Joint Policy Committee Operating Rules and Procedures

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The Committee has requested a report consolidating its current rules and procedures. This is that report.

The Joint Policy Committee derives its rules and procedures from three sources: (1) The Final Report of the ABAG-MTC Task Force (December, 2003), SB 849 (chaptered, September 25, 2004), and decisions of the Committee itself as documented in its minutes. The rules and procedures are not extensive nor are they highly prescriptive. They are listed below with citations to their sources.

Purpose

The Joint Policy Committee's purpose is to advance integrated regional planning and will have authority to comment on and review any substantial regional plans or strategies that are devised by either agency, and shall report directly to the board of each agency. The focus of the Committee's efforts will be to periodically update the regional vision and outline implementation strategies for consideration by ABAG and MTC. Countywide agencies made up of city and county representatives as well as other regional agencies should be involved extensively in helping to update the Vision and creating the strategies. (Final Task Force Report, pp. 2-3)

The joint policy committee shall coordinate the development and drafting of major planning documents prepared by ABAG, MTC, and the Bay Area Air Quality Management District, including reviewing and commenting on major interim work products and the final draft comments prior to action by ABAG, MTC, and the Bay Area Air Quality Management District. These documents include, but are not limited to, the following:
(1) Beginning with the next plan update scheduled to be adopted in 2008, the regional transportation plan prepared by MTC and described in Section 66508 of the Government Code.
(2) The ABAG Housing Element planning process for regional housing needs pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.
(3) The Bay Area Air Quality Management District's Ozone Attainment Plan and Clean Air Plan. (SB 849, p. 3)

Membership

The Bay Area Air Quality Management District should be included as a represented agency on the joint policy committee by June 30, 2005. If the Bay Area Air Quality Management District has not been included by June 3, 2005, the Bay Area Air Quality Management District shall be included as a represented agency with an equal number of committee members. (SB 849, p. 2)

The combined membership of the joint policy committee shall include at least one representative from each of the nine regional counties: Alameda, Contra Costa, Marin, Napa, Sonoma, San Mateo, San Francisco, Santa Clara, and Solano. (SB 849, p. 3)

THAT the Bay Area Air Quality District (BAAQMD) be invited to appoint seven members to the Joint Policy Committee, increasing the Committee's voting membership from fourteen to twenty-one members; (Minutes of the JPC Meeting of November 19, 2004, p. 5)

THAT the Secretary of Business, Transportation and Housing be invited to appoint an *ex officio* member to the Joint Policy Committee; (Minutes of the JPC Meeting of November 19, 2004, p. 5)

THAT the size and composition of the Joint Policy Committee be reviewed after one year; (Minutes of the JPC Meeting of November 19, 2004, p. 5)

Chair

THAT the Committee chair rotate among member agencies, the chair or president of each agency serving a one-year term as chair of the JPC, in this order: ABAG, MTC, BAAQMD. (Minutes of the JPC Meeting of November 19, 2004, p. 5)

Meeting Frequency and Length

The Committee would continue meeting monthly through June, 2005, at which time the meeting frequency would be reviewed;
Meeting lengths should not exceed two hours and should be shorter if possible;
Staff presentations should be concise, particularly if accompanied by a written report, so as to maximize the time available for Committee discussion (Minutes of the JPC Meeting of December 17, 2004)

Staff Resources

The Joint Policy Committee shall have its own dedicated staff resources to implement a work plan of its creation devised to advance integrated regional planning for the Bay Area. The staff team (numbers to be determined based upon an adopted work plan) shall be led by a Planning Manager who shall be retained by the Executive Directors of ABAG and MTC with input provided by the Joint Policy Committee.

MTC agrees to provide funding for up to two years for the Planning Manager position though assistance from other agencies will be explored by the Joint Policy Committee as well. It is also agreed that during this time ABAG will provide additional information as to how funding previous allocated by the Commission to ABAG are being spent and the work products created. The first order of business will be to develop a work program and budget for the joint policy committee. Both agencies will contribute to this work program with funds, staff, or both. The exact budget and source of funds will be the subject of a later negotiation and agreement between the agencies. (Final Task Force Report, p. 3)

The joint policy committee shall prepare a report analyzing the feasibility of consolidating functions separately performed by ABAG and MTC. The report shall be reviewed and approved by MTC and the ABAG executive board and submitted to the Legislature by January 1, 2006.
(SB 849, p.2)

It was the consensus of the Committee that it did not want to become involved in the details of organizational realignments; that the important thing was to get regional planning and implementation done in the most efficient manner possible. Where and how that happened was much less important than that it do happen. The Executive Directors of the three agencies were tasked with making arrangements to properly resource the integrated regional planning function and getting on with the work. This may include the consolidation of some support functions if appropriate and cost-efficient to do so. (Minutes of the JPC Meeting of January 28, 2005)

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Joint Policy Committee / Regional Planning Program

ITEM 7.1

Date: March 17, 2005

To: Joint Policy Committee

From: Regional Planning Program Director

Subject: The JPC in Relation to Pre-existing ABAG, BAAQMD and MTC Planning Committees

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The Chair of the Joint Policy Committee (JPC) has requested a report on how the JPC's mandate relates to the mandates of existing regional planning committees at each of the three member agencies. This memo, prepared in consultation with the Executive Directors of ABAG and MTC and with the BAAQMD Air Pollution Control Officer, responds to that request. The memo suggests a couple of modest ideas for responding to the expanded committee structure created by insertion of the JPC. The ideas attempt to pursue efficiencies and enhance communication while retaining the pre-existing committees and their inclusionary benefits.

<u>The JPC</u>

The JPC derives its mandate from two sources: the final report of the ABAG-MTC Task Force, dated December 19, 2003; and SB 849 (Torlakson), signed into law September 25, 2004.

The Task Force report describes the JPC mandate as follows:

> *A permanent joint policy committee, consisting of representatives of the ABAG and MTC Boards shall be created. The Joint Policy Committee's purpose is to advance integrated regional planning and will have authority to comment on and review any substantial regional plans or strategies that are devised by either agency, and shall report directly to the board of each agency. The focus of the Committee's efforts will be to periodically update the regional vision and outline implementation strategies for consideration by ABAG and MTC. Countywide agencies made up of city and county representatives as well as other regional agencies should be involved extensively in helping to update the Vision and creating strategies. The Joint Policy Committee will look at its relationship with the Regional Agency Coordinating Committee and other standing committees of each agency.*

SB 849 elaborates on and arguably expands that mandate:

> *The joint policy committee shall coordinate the development and drafting of major planning documents prepared by ABAG, MTC, and the Bay Area Air Quality Management District, including reviewing and commenting on major interim work products and the fi-*

nal draft comments prior to action by ABAG, MTC, and the Bay Area Air Quality Management District. These documents include, but are not limited to, the following:

(1) Beginning with the next plan update scheduled to be adopted in 2008, the regional transportation plan prepared by MTC and described in Section 66508 of the Government Code.

(2) The ABAG Housing Element planning process for regional housing needs pursuant to Article 10.6 (commencing with Section 65580) of Chapter 3 of Division 1 of Title 7.

(3) The Bay Area Air Quality Management District's Ozone Attainment Plan and Clean Air Plan.

There are four key characteristics of the JPC mandate:

1. The JPC has a core responsibility in the development and implementation of integrative regional strategy (currently the Smart-Growth Vision);

2. In pursuing that responsibility, the JPC will involve other significant parties—particularly counties and cities;

3. The JPC is responsible for coordinating and reviewing major planning documents from each agency for the implied purpose of pursuing consistency with the integrative strategy;

4. However, final decision-making authority will continue to reside with the member Boards and Commission, and the JPC must report directly to the relevant Board(s) and/or Commission for final disposition of any policy recommendation.

The Task Force report makes explicit reference to the Regional Agency Coordinating Committee (RACC). The RACC was created to coordinate the work of ABAG, BAAQMD, and MTC on air quality plans. It was also briefly charged, together with a smart-growth working group, with pursuing implementation of the Smart-Growth Vision. However, it did not have time to make significant progress on the latter task. As the SB 849 gives the RACC's original *raison d'etre* to the JPC and as the Task Force report assigns smart-growth strategy to the JPC, both the primary and secondary mandates of the RACC have been obviated. The RACC has not met since the JPC started meeting.

<u>Member Agency Committee Structure</u>

Each of the member agencies has in place an existing committee structure to advise on and consider planning and policy matters.

At ABAG, the Executive Board makes planning and policy decisions. For example, the Board approves and adopts the policy-based population, household and jobs forecasts (most recently *Projections 2005*) and the Board adopts the Regional Housing Needs Determination. The Regional Planning Committee (RPC) is one of three standing committees of ABAG and is charged with studying and submitting the following to the Executive Board: the Regional Plan for the San Francisco Bay Area; environmental management, housing and infrastructure planning; comprehensive policies and procedures; and other matters as assigned by the Executive Board. Nearly three-quarters of RPC members are directly elected and represent member cities and counties as well as special district boards and other regional bodies. Other members represent designated special or public interests. Over the years, the RPC has been a leader in developing ABAG planning initiatives, including the land-use policy framework, sub-regional planning policies, and smart growth strategies.

Planning and policy decisions at the Air District are made by the Board of Directors, with in-depth discussion of some policy and planning issues occurring at the Board's Executive Committee. The Board and the Air Pollution Control Officer are advised by an Advisory Council made up entirely of non-elected appointees selected for their expertise or interest affiliation.

The Commission is, of course, the policy-making body at MTC, with the Planning and Operations Committee (POC) providing a forum for the detailed consideration of planning matters. Of the three agencies, MTC has the most complex structure of committees, constituted to provide advice and to pursue projects and programs in partnership with other agencies. The advisory committee most related to general regional transportation and land-use policy is the Advisory Council. Members of the Council, all non-elected, either represent an interest or an area of technical knowledge.

The BAAQMD and MTC Advisory Councils and the ABAG Regional Planning Committee may undertake their own work programs and discuss items without immediate reference to policy items pending before the Boards or Commission. Information exchange may be the only intended short-term result, and there may be no expectation of an imminent Board or Commission decision. Part of the RPC's mission is to elevate new issues to the fore; information exchange can be a first step in deciding that an issue is of sufficient import to warrant a subcommittee, special study, development of tools and resources, etc.

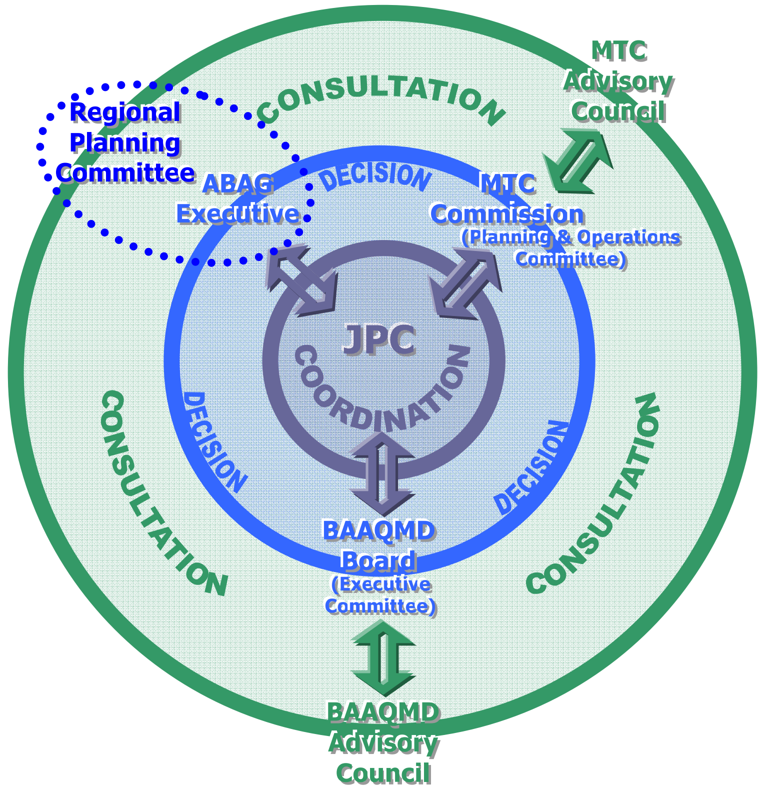
In addition to standing committees, all three agencies may appoint *ad hoc* technical advisory committees (TACs) to assist with the development of particular policies or programs. As well, all three agencies are members, along with a variety of private-sector and voluntary organizations in the Bay Area Alliance for Sustainable Communities. The Alliance was the umbrella organization for the *Compact for Sustainable Development* and was one of the partners in the development of the *Smart Growth Strategy / Regional Livability Footprint Project*, a key representation of the Smart-Growth Vision. ABAG was the lead agency and secured the funding for the merged smart-growth / livability footprint work.

<u>Consolidated Committee Structure</u>

Inserting the JPC into the existing structure of major policy and planning committees results in the consolidated structure illustrated in the diagram on the next page.

The JPC is at center of the action, developing and pursuing a regional strategy and coordinating regional planning work in all three agencies to ensure plans, policies and actions consistent with the strategy.

However, policy decisions can only be made by the member Boards and Commission. In their detailed policy deliberations, these bodies may rely on standing committees composed entirely of Board and Commission members (e.g., the BAAQMD Executive Committee or the MTC Planning and Operations Committee) or committees with broader membership (the ABAG Regional Planning Committee.



The Boards and the Commission may also draw upon policy advice provided by committees or councils containing members from the broader community of interest groups and experts. The ABAG RPC is a hybrid in that it contains both non-elected advisors and elected members. It is both a standing committee and an advisory group. From time to time, the advisory groups and the RPC may, either through their own initiative or as result of a Board or Commission referral, consider regional issues without direct reference to a pending policy decision. This may be purely for the purpose of information sharing, for the objective of assessing early warnings, or to incubate new ideas not yet ready for prime time.

Potential Issues

The consolidated structure described above was not planned; it just happened. As a result, there may be some issues requiring resolution. Three inter-related concerns stand out:

1. Repetition and duplication
   As major planning and policy items must be considered by an increasing variety of decision-making, advice and coordinating bodies, there is potential for some perceived and real inefficiencies in the use of member and staff time. For example, an ABAG member sitting on the JPC, the RPC and the ABAG Executive may be required to sit through essentially the same staff presentation at least three times (Multiply that number for some JPC members who sit on both Boards and the Commission!). Staff, pursuing a major policy initiative may be required to speak to at least a half dozen groups within the circle of the three agencies before even taking a step out the door to consult with a broader constituency of local governments and the general public. This places a burden on already busy Board and Commission members, adds to the time required to resolve major policy issues and reduces the ability of a finite staff resource to pursue new initiatives. To some extent this is an unavoidable cost of

undertaking complicated planning tasks and seeking difficult policy choices in a large and complex region. It is important that no one feel excluded. However, if we are to make relatively rapid progress and not wear people out, we need to do as much as we can to make this process efficient and expeditious.

2. Priorities and focus

One huge reality for the Bay Area is that the resources available to pursue integrated, strategic regional planning of the type mandated to the JPC are limited. Planning investigations not directly related to the regional strategy serve a useful purpose, but every resource they consume is a resource not available to the integrative strategy and its implementation. To the extent that regional resources are used by advisory or standing planning committees independent of and unrelated to the consolidated regional planning mandate, the ability to meet that mandate is diluted. Agencies may need to make choices between independent planning programs and their demonstrable benefits and consolidated work on the regional strategy. Without a net increase in resources or hard choices about priorities, we will not be able to meet expectations for the JPC and the integrative regional strategy.

3. Indirect connection between the JPC and the community of advisors

As the diagram illustrates, the advisory councils and the RPC provide advice to their respective Boards and Commission. The link to the JPC and its strategy and coordination mandates is indirect. For integration to occur and for the strategy to be effective and robust, there may need to be more direct communication between the JPC and the advisory bodies and among the advisory bodies themselves. A meaningful connection with the Bay Area Alliance and the other regional agencies may also need to be re-established, noting that the agency advisory bodies and the Alliance also have many members in common.

Steps Toward Resolution and Improvement

The existing agency committee structure, before the interjection of the JPC, is an institution. Some parts of it have existed for decades. Institutions do not change quickly or easily, and the issues identified above are inevitable and expected. Wholesale restructuring of the existing committees and their mandates risks losing the many benefits they can provide.

However, the JPC and its constituent agencies can begin taking some steps to reduce redundancy, focus resources and improve communication.

One possible step is to do as MTC has done with the draft TOD policy, essentially turning over refinement and development beyond the initial draft to the JPC. It is MTC's intention to only bring TOD to the attention of its own Planning and Operations Committee and Commission at key policy junctures after the JPC has carefully considered broad policy implications, received public comment and formulated recommendations. The JPC will be the single focus point for an integrated consideration of TOD policy relative to the region's consolidated growth and development objectives.

Taking this approach one step further would involve bringing major policy work to the JPC at its very inception, not in mid-stream as has been necessitated by the initiation of the TOD work well before the JPC's creation. This would help ensure truly integrated work programs, involving appropriate resources and perspectives from all member agencies, and would allow the JPC to clearly focus on what we are doing together, not on what we are doing independently.

Another possible innovation is to use a conference model for those extraordinary instances when a policy initiative requires involvement of a wide spectrum of advisors. The model is a common one, which most people in public life have experienced. It would work something like this:

- Various advisory councils and committees (and perhaps even groups like the Bay Area Alliance) would come together in one large room to hear a common staff presentation and maybe a panel discussion of countervailing views;

- The councils, committees, and groups would then meet separately in breakout sessions to identify and discuss issues and formulate preliminary recommendations for the JPC;

- The separate committee reports might be presented in plenary session, so groups could learn from one another;

- Working from common themes and from areas of agreement and disagreement identified by the various committees and groups, the JPC (assisted by its staff) would identify an agenda for further discussion and possible staff work;

- Depending on the complexity of the policy issue, there might be iteration through another conference or two until a shared, implementable package could proceed through the JPC to the relevant Board(s) and/or Commission.

There are some obvious logistical problems in working this way, and it is inappropriate for most common decisions that the regional agencies currently make. However, for major policy questions, involving multiple interests, it may be a more expeditious and informative process than the current method of proceeding one committee at a time. It is certainly worthy of serious consideration for the few major policy initiatives for which it would be applicable and for which the costs of organization can be justified by time and staff savings compared to a more disjointed and incremental approach.

There may be other improvement ideas as well. It is important to not get fixated on "shape-of-the-table" issues, and we should not be concentrating on committee structure and processes at the cost of paying less attention to the substantive issues that really matter to the region. However, we may benefit from recognizing and acknowledging that there may be issues and problems with the consolidated committee structure which interjection of the JPC and the objective of coordination have produced. These issues and problems will not go away by themselves, and at least some small intervention and experimentation may be desirable. It is a different regional world then it was this time last year, and everyone may need to adjust at least a little if we are to make the progress expected of us all.

RECOMMENDATION

The Regional Planning Program Director, in consultation with the Executive Directors of ABAG and MTC and with the BAAQMD Air Pollution Control Officer, RECOMMENDS:

THAT the JPC encourage member agencies to use new major policy initiatives as opportunities to consider how items are assigned to and processed through standing committees and advisory councils so as to:

- Acknowledge and use the new integrative planning and coordination role of the Joint Policy Committee as early as possible in policy development;
- Minimize unnecessary duplication and inefficiencies in the use of member and staff time;
- Accord priority to implementation of the integrative regional vision through the JPC and appropriate member agencies;
- Promote productive communication among advisory councils and standing committees and between those bodies and the Joint Policy Committee;
- Ensure that involvement remains inclusive and considerate of all relevant interests.

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Joint Policy Committee / Regional Planning Program

ITEM 7.2

Date: April 4, 2005

To: Joint Policy Committee

From: Regional Planning Program Director

Subject: Fiscal Reform and Smart Growth

At its meeting of March 25, 2005, the Joint Policy Committee (JPC) requested a report back at its next meeting on possibilities for pursuing smart-growth-related fiscal reform through the current seating of the State Legislature. This is that report.

Proposition 13 and its Aftermath

In the limited time available to prepare this report, I have conducted a first-cut survey of the many analyses done of post-proposition-thirteen local-government finance in California. Most of those analyses are highly partisan and tend toward the polemic. Unfortunately local-government finance in California has become so complex and involves so many uncontrolled and uncontrollable variables that it effectively defies scientific study. Many presumed benefits and costs are theoretical and unconfirmed by hard empirical evidence. With that caveat, I have appended to this report two relatively objective and comprehensive assessments of the situation. The first is an article in the Sacramento Bee done on the twenty-fifth anniversary of Proposition 13. This provides a good "Cliffs Notes" version of the story. A more complete, albeit somewhat less charitable, telling is in the dated but still relevant paper from Jeffrey Chapman for the Public Policy Institute of California.

One fundamentally important observation is that the current situation is not just the result of Proposition 13 but is the sum of the original Jarvis-Gann amendment and all the adjustments and allocations that have been made since to compensate and then compensate again for the compensations. My own admittedly superficial summary of the result and of the consensus of the more objective analysts is this:

Positives

- Some low-income and elderly homeowners have been protected from increases in property taxation (as have some less deserving individuals and corporations depending on how long they have held their properties);

- Some property owners have a more certain, more predictable, more stable tax environment;

- There has been some moderating influence on the cost and growth of government and some incentives for greater efficiency and civic entrepreneurship; but.

Negatives

- There has been increased separation and confusion between the accountability and the authority for local revenue and expenditure decisions;
- There has been a proliferation of anomalies and inequities—both between residential and commercial property classes and within classes;
- Local government revenue has become less certain and more volatile;
- The potential effectiveness of local government has been eroded and there has been some loss of service and degradation of service quality;
- The distribution of fiscal incentives and controls may be sending the wrong signals to land-use decisions, contributing to the over-supply of retail and the under-supply of housing;
- In spite of all the problems, (and in spite of the fact that the equity concerns that nominally spawned Prop 13 could have been solved with more effective and less disruptive means: e.g., a combination of income-tax credits for low-income home owners and deferred taxation for the elderly) fundamental reform is highly unlikely (Proposition 13 is a sacred cow straddling a third rail.).

Potential Reforms

While as local-government officials the JPC's members have an interest in all the consequences of Proposition 13 and its progeny, the JPC as a body is primarily interested in the penultimate bullet point under negatives: the signals which the composite revenue system sends to the land-use control system.

Of the system tweaks proposed to deal with that problem, arguably the most effective would have been AB 1221 (Steinberg and Campbell) which failed to pass during the 2003-2004 sitting of the Legislature. This would have permitted local governments to swap a portion of their sales tax revenues for state property tax revenues, thus leveling the scales between residential and retail uses. There is no comparable bill before the current session.

However, SB 1060 (Campbell) and AB 1146 (Huff) would signal an intent to authorize a more limited version of tax-base sharing and give effect to the one of the provisions of the constitutional amendment put into place by passage last year of Proposition 1a. This would permit multiple jurisdictions within a single county to negotiate the exchange of sales and property tax revenues among those local jurisdictions. My preliminary assessment of this newly available constitutional provision is that it would be of limited interest to cities and counties in the Bay Area and of limited effectiveness in facilitating smarter growth. However, it may be helpful to test this assumption with a couple of hypothetical Bay Area case studies, if only to demonstrate that more far-reaching tax-base sharing may be required, as in Steinberg and Campbell. If the JPC is interested in pursuing an exploration of Proposition 1a tax-base sharing and a comparison to the previous AB 1221 scheme, ABAG would be the appropriate agency to commission and manage this study.

Another bill which did not achieve passage during the 2003-2004 sitting was SB 17 (Escutia). This bill has been carried over and strengthened in a new SB 17 (Escutia) which is before the current session. SB 17 would move toward a split roll by modifying the definition of change of ownership for corporately owned commercial properties and tightening ownership reporting requirements. This would result in commercial properties being assessed more frequently than at present. More frequent reassessment would, in turn, reduce current inequities, enlarge the overall base and redress the imbalance between the commercial and residential bases. Opponents argue that it would stifle investment, economic development and job creation.

The proponents of the split roll employ the ideas of Henry George and others to argue that more frequent assessment of commercial properties would have positive land-use effects, encouraging in-fill and redevelopment. They do not explicitly observe that the land-use benefits of current market valuation apply equally well to the commercial and residential bases. While a split roll may arguably have some positive land-use effects, the principal reasons for its pursuit relate to equity and revenue generation. While these potential benefits are worthy from a local-government finance perspective and merit nominal support, I fear that their active pursuit could be a diversion for the JPC relative to its transportation and land-use mandate, particularly given the well-financed opposition.

ACA 7 (Nation) proposes to reduce the voter requirement for special taxes from the current super-majority of 2/3 to 55 percent. To the extent that this permits local governments to finance infrastructure and other services from general revenue and reduce the reliance on impact fees and other exactions, it may have positive land-use impacts. Its primary purpose is, however, to permit our communities to become more livable by reducing the ability of a minority to hold incremental revenue hostage. While not central to the JPC's mission, the Bill merits support.

Directly germane to the JPC's smart-growth mandate is AB 1259 (Daucher). This bill is also likely to be the most contentious among JPC members and among Bay Area local governments. This bill would declare the Legislature's intent to enact legislation that would reward cities and counties that exceed 80% of their Regional Housing Need Assessment (RHNA) goals over a five-year period with an increased share of the annual tax increment that is allocated among local agencies in a county. God or the Devil is clearly in the details of legislation like this, but there are no details yet.

A parallel initiative from the Business, Transportation and Housing Agency, not yet codified in draft legislation, proposes to take Councils of Government (ABAG in the Bay Area) out of most of the RHNA process, making local governments directly responsible to the State, which would also impose sanctions for non-compliance. A well-structured regional RHNA process, coupled with appropriate incentives could be a major tool for achieving regional smart-growth objectives, but there is some possibility we could lose this tool and the opportunity it provides. This clearly calls for an aggressive counter proposal from ABAG.

Finally there is AB 1033 (Daucher). This bill would appear to redress some of the presumed evils of the Education Revenue Augmentation Fund (ERAF), which diverted former county property tax revenue through the State for educational purposes. The bill seems to return some of these revenues to counties. To the extent that property tax revenues provide incentives for appropriate development, this is a good thing, and the bill may be moving in the right direction. However, the bill is also a prime example of how arcane the system of local government finance has become. A reading of the bill provides no indication of its real impact if any.

Conclusion

There are a few opportunities in the current legislation session to influence the structure of local government finance so as to make it more friendly to the objective of smart growth. The JPC itself has no legislative affairs capability, but can recommend directions to the legislative functions of its constituent agencies. The JPC may also request those agencies to undertake work related to the JPC's mandate.

Recommendation

I RECOMMEND:

A. THAT the JPC express support for the objectives of SB17 (split roll), ACA 7 (reduced super majority), and AB 1033 (property tax allocation);

B. THAT the JPC request ABAG to consider and report back on the advisability and feasibility of conducting cases studies comparing the smart-growth benefits of alternative tax-sharing schemes—including, but not limited to, those permitted by Proposition 1a and the Steinberg and Campbell proposal of 2003-2004;

C. THAT the JPC urge ABAG to formulate a proposal for an RHNA process which pursues the smart-growth vision and provides appropriate incentives to local governments.

The Online Division of The Sacramento Bee

This story is taken from Living with Prop 13 at sacbee.com.

Debate over Prop. 13 still rages

Benefits are clear at tax time; the cost is harder to see

By John Hill -- Bee Capitol Bureau
Published 2:15 am PDT Sunday, June 1, 2003

As Proposition 13 approaches its 25th anniversary, California's landmark anti-tax initiative continues to be blamed by public policy experts for everything from unsightly blooms of auto malls to lackluster schools.

But in a February poll by the Public Policy Institute of California, 57 percent of respondents said they thought that Proposition 13 has turned out to be "mostly a good thing for California."

This gulf between policy insiders and average people speaks volumes. The drawbacks of Proposition 13 are hard to discern. But its windfall comes every year in the mail, in the form of a greatly reduced and predictable property tax bill.

"It was a lifesaver for a lot of people," said William Falkenstein, a 73-year-old Orangevale resident.

The year Proposition 13 passed, Falkenstein's property tax on his house in Los Angeles was poised to double.

Falkenstein, a semiretired distributor of computer accessories, voted for the initiative "in spite of the dire predictions that everything would shut down. No more libraries. The police department and fire department wouldn't be able to service you. None of that happened. Things just went on as usual."

As the state tries to find its way out of the worst fiscal morass in its history, many have asked whether it's time to tweak Proposition 13 -- especially with regards to commercial property.

But even now, few dare to suggest tinkering with its heart and soul -- the protection it provides to homeowners against wild upswings in property taxes.

The 25th anniversary promises to be followed by many more. And the legacy of Proposition 13 -- the crazy quilt of unintended effects and attempts to circumvent its restrictions, as well as lower property tax bills -- continues to unfold.

"It's not just a property tax law, it's an icon," said Joel Fox, a past president of the Howard Jarvis Taxpayers Association, founded by the man behind the initiative. "Proposition 13 attacked the status quo in 1978. It is the status quo of 2003."

Its origins have become the stuff of legend. With housing prices rising rapidly in the previous five years, and assessors diligent in booking changes in value, homeowners were getting socked with higher tax bills. Jumps of 40 to 60 percent were common, according to a 1998 analysis by Jeffrey Chapman, now a professor of public affairs at Arizona State University.

Stories abounded of elderly people on fixed incomes being forced to sell their homes when they couldn't pay their property taxes.

To make matters worse, the state was sitting on a budget surplus that would reach $6 billion. That led many voters to conclude property taxes could be rolled back without severe cuts to government services, Chapman wrote.

In the prior decade or so, several tax limitation initiatives had been rejected by voters after opponents argued that public services would be hobbled. But Proposition 13 prevailed by a convincing margin -- 65 percent to 35 percent.

"I thought there might be some cutbacks, but they're certainly not going to let the fire departments be cut short of what they needed," Falkenstein said. "If they needed to, they would be shifting some funds, or operating a little bit more efficiently."

It was a time of widespread anxiety and anger. Inflation was high, and Californians felt they had lost control of their financial futures, Peter Detwiler, consultant to the state Senate Local Government Committee, said. One of the box-office hits of the era was "Network," in which a deranged television anchorman urges viewers to go to their windows and shout, "I'm mad as hell and I'm not going to take it anymore!"

"I think there was a whole lot of frustration and there weren't a whole lot of socially acceptable outlets for people to express that anger," Detwiler said. "And then one came along, and they took it."

Tax limit measures would follow in other states, but, as in many areas of public policy, California set the standard. Proposition 13 limits property tax to 1 percent of a house's 1975 value. The maximum annual increase in the assessment of the house's value is 2 percent, regardless of the skyrocketing market. The only exception is when the house changes hands, which triggers a reassessment at the sales price, or when it is substantially remodeled.

That represented a dramatic change from the days when local governments decided how much property tax they needed, and then set the rate accordingly. Property owners' bills were the sum of the rates imposed by all the local governments that served them.

Proposition 13 also required that tax measures be passed by a two-thirds vote in the Legislature and that "special taxes" imposed by local governments garner a two-thirds majority of voters.

In the ensuing quarter century, Proposition 13 caused a dramatic swing in power from local governments to the state capitol. It unleashed a torrent of ingenious strategies to raise revenue despite its limits, and new efforts to block them. And it touched off a perennial debate about the initiative's effects.

The persistence of that discussion stems in part from the simple fact that the consequences are hard to see.

"No one knows what the world would have looked like" without Proposition 13, said Marianne O'Malley, principal fiscal policy analyst at the nonpartisan Legislative Analyst's Office.

In Roseville, the real fiscal blow didn't come until more than a decade later, City Manager Craig Robinson said.

Proposition 13 gave the state the power to divvy up property tax revenue, which since 1910 had been in the hands of counties and cities.

That change in the balance of power became painfully clear to local governments in 1992. Faced with a severe budget crisis, the state shifted more than $3 billion in property tax revenue from local governments to schools, thereby relieving part of its own obligation to pay for education.

"We are now dependent on them to pass revenues to us and hope they don't take it from us," Robinson said.

For Roseville in the coming fiscal year, the shift to schools means a loss of $2.6 million. That money would have been enough to pay for a fire station, a branch library and five police officers, Robinson said.

Roseville also had depended upon a utility user tax that generated $9 million a year. But that revenue source ran afoul of Proposition 13's requirement that special taxes be approved by two-thirds of voters, and is now dead.

Roseville is just one of many case studies of municipal life after Proposition 13: local governments at the mercy of the state, scrabbling for stable sources of revenue.

"I feel it every day," said Jeff Dubchansky, general manager of the Fulton-El Camino Recreation and Park District.

Like Roseville, the park district didn't really feel the brunt of Proposition 13 until the 1992 shift of property taxes from local governments to schools. Cities and counties got some money to soften the blow from a half-cent sales tax for public safety. But Dubchansky said special districts like his got nothing. Property tax revenues dropped by one third.

Fulton-El Camino used to run three swimming pools. But, pressed for cash, it closed two in the 1990s, leaving only the Cottage Pool.

Proposition 13 wasn't entirely to blame, Dubchansky said. The pools got old and needed more maintenance, and capital and equipment costs went up.

But the initiative certainly played a role, especially by taking the decision of how much to spend on parks and pools out of local hands.

"Before Proposition 13, you were allowed to make those decisions locally," he said. "Now you can't."

The district has increased its fees, mindful of the danger that excessive charges could drive away people. It used to be free to attend a Halloween event, featuring a carnival, costume contest and haunted mansion. Now it costs $3 per person or $10 per family.

The district's five-member board still can seek voter approval of special assessments, and some of these have succeeded.

"It's more cumbersome," Dubchansky said. "I guess that's what folks wanted."

It's still what folks want, according to Fox, the past president of the Howard Jarvis association. If government officials complain about lack of control, he said, "it's because (the initiative) gave certainty to the taxpayer, and not the tax collector ... I don't think that people want to give that up."

That was the conclusion of the February poll by the Public Policy Institute of California in which 57 percent said the initiative's overall effect had been good. Among homeowners, an even greater majority -- 65 percent -- said that it had been "mostly a good thing."

"The bottom line is that the public doesn't recognize all the blemishes on Proposition 13 that policymakers have been perceiving," said Mark Baldassare, director of research at PPIC.

People distrust government so much that they would balk at returning taxing power to local officials, he said -- especially considering the almost constant run-up in property values, which would translate quickly into higher tax bills.

"With the government's way of doing business, there's never enough money for what they want to spend," said Falkenstein, the Orangevale resident. "However much they get, it all gets spent."

Others think Proposition 13 is an attack on the public good.

Paul Mattiuzzi, a 51-year-old forensic psychologist who owns a house in Arden Park, sees its handiwork in the squalor along major thoroughfares, a local library that's open only four days a week, and the higher fees he will have to pay for his daughter to attend the University of California, Berkeley, this fall.

"As a homeowner, I think it hurts my investment," Mattiuzzi said. "If the schools aren't taken care of, the value of my house goes down. If the parks aren't taken care of, the value of my house goes down. If your roof has a hole in it, you don't save any money by letting the rain come in."

A couple of years after Mattiuzzi bought his house in 1989, Arden Park approved an assessment on property to keep the pool from being shut down. But his neighbors balked at paying another $30 a year to maintain the Modesto ash trees that were planted on every lot when the neighborhood was built.

"People screamed and said, 'No, no, no,' " he said. "Now we have this crisis. Our trees are dying."

Mattiuzzi also was convinced Proposition 13 was at work when he paid thousands of dollars in developer impact fees to his local school district.

Local governments resorted to such fees after Proposition 13 to replace lost property tax revenue. Mattiuzzi had to pay developer fees when he built an office in his back yard and added on to his house.

Although he's a strong believer in spending money on schools, he questions the equity of having to pay thousands of dollars in fees to make his house as big as his neighbor's. And is it fair, he asks, that under the initiative's rules, new homeowners pay thousands more for schools and other public services than do neighbors who are longtime owners?

"Underlying it is just cheapness," he said.

The developer fees that rankle Mattiuzzi are one of the many and varied ways that governments have tried to make up for lost property tax revenue.

The Mello-Roos law allows owners of undeveloped land to vote on selling bonds to make improvements, with the debt payments assumed by the people who buy the houses. Fees for many services have gone up or been imposed for the first time.

Proposition 218 in 1996 reined in some of these techniques, making them subject to voter approval. But overall, many local governments largely have recovered from the initial hit they took from Proposition 13.

Schools, too, continue to function. Affluent districts have resorted to large-scale fund raising. Proposition 98 in 1988 required that a share of state revenues go to schools. In the economic boom of the late 1990s, the state chose to exceed the Proposition 98 guarantee by billions of dollars.

But the perseverance of local governments doesn't mean that Proposition 13 didn't have profound effects.

Since local officials no longer decide the level of taxes, they can't be held as accountable for the quality of public services.

When taxes were at stake, business leaders took an interest in what the school board was doing and routinely ran for local office themselves. These days, experts say, there's less reason for civic engagement.

"It marginalized local elections," said Michael Shires, an assistant professor of public policy at Pepperdine University who has written extensively about Proposition 13. "Most people don't know who their council members are any more."

After the initiative passed, the Legislature had to decide how to allocate property tax. Its solution essentially was to freeze the status quo, doling out the money among local agencies in the same proportions used in the mid-1970s -- although with fewer total dollars to go around.

A quarter century later, much has changed in California -- the size of the population, as well as its distribution and needs. But with few exceptions the pie is sliced the same way.

That makes it hard for communities to change their priorities, giving more money to parks or libraries, for instance, or less to something that has become a lower priority, said O'Malley of the Legislative Analyst's Office.

And the allocation system locked in disparities among local jurisdictions, said Terri Sexton, chairman of the economics department at California State University, Sacramento. Some governments that had consciously chosen to keep property taxes low are still being punished.

"The winners are the ones who were imposing big taxes prior to Proposition 13," Sexton said.

The big losers were counties, which shoulder much of the responsibility of providing social services.

"The county health system, the county welfare system -- that's where the squeeze comes in," said Michael Dardia, vice president of the Sphere Institute, a nonprofit, nonpartisan research organization.

One of the more controversial side effects of the initiative has been its influence on land use. The argument goes like this: With few sources of revenue under their control, jurisdictions try to entice businesses that generate sales tax. That's because 1 cent of every dollar in sales goes to the city and county.

Local governments go after auto malls and big-box retail to the exclusion of housing and manufacturing businesses, the argument goes. The result is tighter and more expensive housing markets and a dearth of relatively well-paying manufacturing jobs.

Some experts are skeptical. They point out that local governments chased revenue sources long before Proposition 13 and probably would have tried to entice car lots if the initiative had never been passed.

Still, talk of reform is in the air.

One bill now before the Legislature would halve local governments' share of the sales tax and make up for the loss by giving them a bigger portion of property tax, thereby changing the land-use incentives to encourage more housing and manufacturing.

Officials in both parties have talked about lifting Proposition 13 restrictions on commercial property, allowing them to be taxed at their full market value.

But with studies showing that any change in the residential provisions of Proposition 13 would inordinately hurt elderly and low-income homeowners, few politicians are likely to go there.

Fox believes that the initiative and its progeny could be reformed without jeopardizing its gist.

"Those things do have to be addressed," he said. "But you don't have to do it by taking apart Proposition 13."

About the Writer

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The Online Division of The Sacramento Bee

This story is taken from Living with Prop 13 at sacbee.com.

Mark Paul: How Prop. 13 fostered sprawl, congestion

By Mark Paul -- Bee Deputy Editorial Page Editor
Published 2:15 am PDT Sunday, June 1, 2003

This week, California celebrates the 25th anniversary of the big bang of the growth control movement. That's not how we commonly think about Proposition 13, the Jarvis-Gann initiative passed by the state's voters in June 1978. We remember it as a tax revolt, which, of course, it was.

But the citizen activists of the mid-1970s wanted more than just lower property taxes. Many crusaders who formed homeowner associations, stormed public meetings to protest soaring property taxes and manned card tables at shopping centers to collect signatures on petitions had achieved their political skills by way of fighting anti-growth battles in their communities, points out Clarence Lo, sociology professor at the University of Missouri and author of "Small Property Vs. Big Government," a study of the movement that led to Proposition 13.

"When the property tax hit, they were ready to galvanize into action," he says.

They wanted control over the future in a state that had more than doubled its population since 1950, adding more people than lived in all of New England. They wanted to protect their neighborhoods against the intrusion of apartment houses and condos.

They wanted the freeways to flow freely again and the hillsides to remain as golden fields dotted with green oaks. They wanted their tax dollars to bolster their neighborhoods with the same high quality of services that had originally drawn so many of them here.

And so they ignored the state's top elected leaders, both Republicans and Democrats, and the well-funded opposition campaign mounted by the California Taxpayers Association and the state's biggest businesses, which told them passage of Proposition 13 would destroy public services and endanger California's future economic growth.

They turned away from the optimistic creed of growth and investment that had made California the envy of the nation in the 1950s and 1960s. Instead of building a better future, they wanted to conserve the quality of life they had already built.

"Save the American Dream: Yes on 13," one of their slogans read.

It hasn't exactly worked out that way.

Yes, Proposition 13 brought down property taxes for homeowners who, in 1978, had gone through round after round of soaring assessments but had received no relief from local officials or state government. And it delivered certainty. Homeowners needed and deserved that protection.

But the measure has also turned out to be the poster child for unintended consequences. Far from ending growth, as many of the measure's supporters hoped, the constraints of Proposition 13 and the state's adjustment to it have made growth less manageable.

The big reduction in the property tax and the subsequent state shift of the property tax to schools has severed the old link between growth and services.

Attracting a major employer or building a new neighborhood used to provide community wealth. The revenues from growth would not just pay for the basic services needed by the newcomers, but also help fund amenities that created a better quality of life for everyone: parks, museums, concert halls.

But now, the only growth that pays for itself in taxes is retail, which throws off local sales tax. That's why citizens opposed to having affordable housing in their communities can make a plausible, and often winning, argument that the new units will hurt local finances. Cities chasing sales tax dollars have propelled retail development on the periphery of regions, accelerating sprawl. As a result, we get imbalanced communities and more driving, smog and congestion.

Proposition 13 also put the developers in control. Communities with adequate tax resources can direct growth by building infrastructure. Since Proposition 13, communities have had to shift to paying for infrastructure out of fees, exactions and financing districts that come from new projects themselves. That puts more of the power to dictate the location, timing and composition of growth in the hands of developers. Planners and elected officials are beggars, not choosers.

"The irony of Prop. 13 is that if you are really going to manage growth, you need government," says Lo. "That's the problem with Prop. 13. It kicked a hole in the side of government. There's now a whole lot less in its toolbox."

The other irony involves housing. Proposition 13 was written and passed in the name of protecting the ability of ordinary people to afford to live in their homes. Yet one unintended effect of the measure has been to make housing less affordable than ever.

As economists Steven Sheffrin of UC Davis and Terri Sexton of California State University Sacramento have shown, lower property taxes drive up the market price of housing. Sheffrin's research also demonstrated that the fees placed on new construction in the wake of Prop. 13 raise prices of both new and existing homes in many instances.

Perhaps most important, the twisted set of tax incentives makes cities reluctant to approve enough new housing, resulting in what housing experts Dowell Myers and Julie Park at the University of Southern California call "the great housing collapse." A smaller share of Californians own homes today than in 1960, and the state's homeownership rate is the third lowest in the country.

In 1978, the slogan "Save the American Dream" expressed a desire for collective action to protect shared community values. But in politics, there's often not much distance between noble goals like that and another Proposition 13 slogan: "Vote for yourself! Vote for Proposition 13!" The next generation of the growth control movement will define itself by how well it knows the difference.

About the Writer

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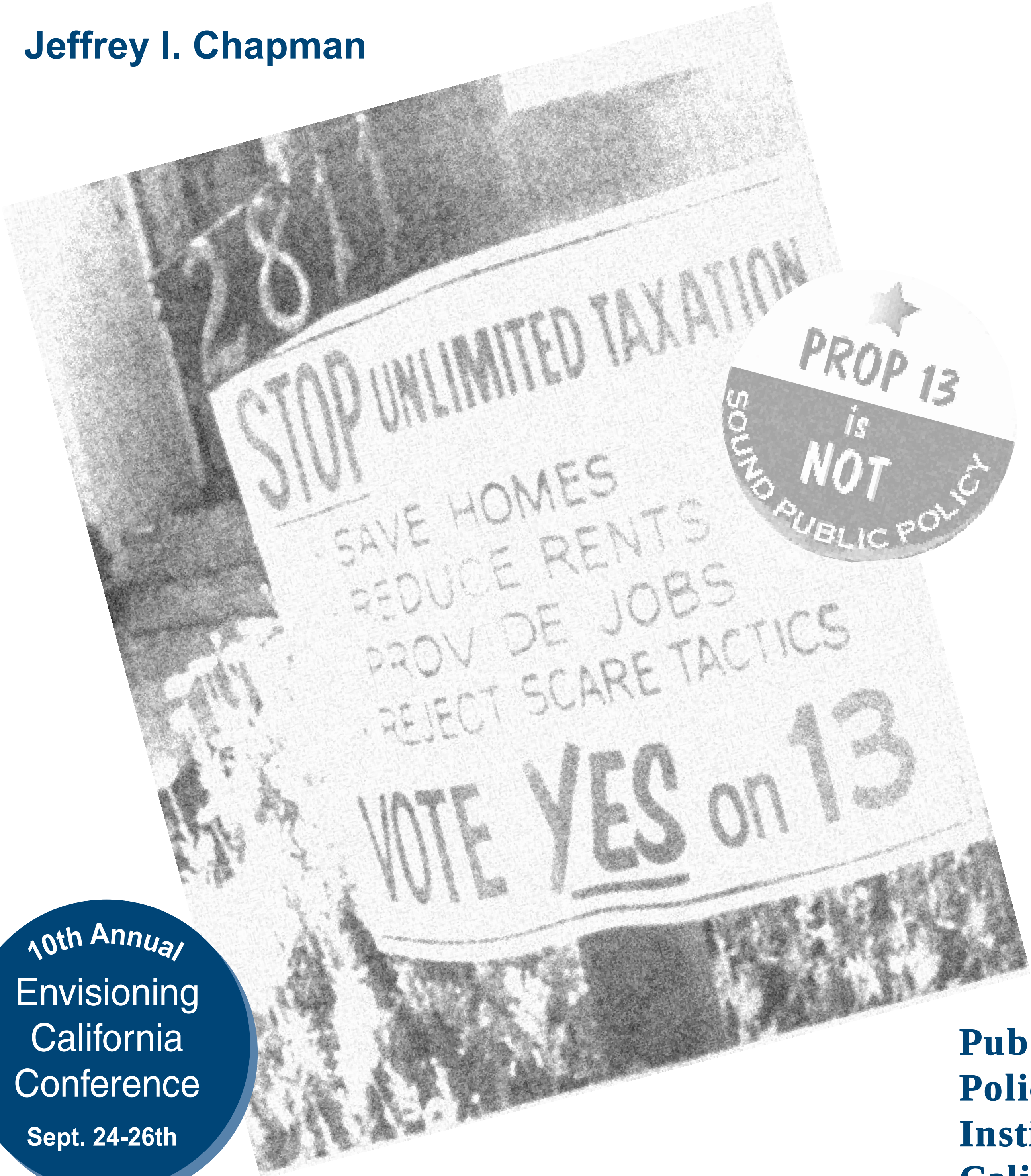
Occasional Papers

Proposition 13: Some Unintended Consequences

Jeffrey I. Chapman



10th Annual Envisioning California Conference
Sept. 24-26th

Public Policy Institute of California

Preface

The Public Policy Institute of California commissioned this paper to provide an overview of Proposition 13 and to motivate discussion of this initiative at the Tenth Annual Envisioning California Conference. The author, Jeffrey I. Chapman, is a Professor of Public Administration in the School of Policy, Planning, and Development at the University of Southern California. This paper discusses the consequences of an initiative that may well be one of the most significant to be passed in the history of the state. The paper reflects Professor Chapman's deep knowledge of the subject and also presents his views about appropriate directions for policy. We believe it will stimulate useful debate on the consequences of Proposition 13 and future policy directions. At the same time, we should note that the views expressed in the paper are the author's and do not represent positions taken by the Institute. PPIC's ongoing body of research in governance and public finance is establishing an empirical basis for addressing many of the issues raised here. As in all of our work, we aim to do so in a way that is consistent with PPIC's nonpartisan status.

Contents

Acknowledgments

This work was funded by the Public Policy Institute of California and uses some previous work funded by the Lincoln Institute of Land Policy. The author wishes to thank the many people at PPIC for their comments and suggestions. In particular the author would like to thank Fred Silva, Joyce Peterson, Mark Baldassare, Paul Lewis, and Michael Dardia at PPIC, Marianne O'Malley of the Legislative Analyst's Office, Peter Detwiler, Consultant to the Senate Local Government Committee, and Tim Hodson, Executive Director, Center for California Studies, California State University, Sacramento, for their incisive comments. Any errors, of course, are attributable to the author.

1. Introduction

Proposition 13's proponents argued that it was a simple property tax reform. Yet its effects were not simple, altogether expected, or always benign. To better understand the consequences, both intended and unintended, this paper will briefly discuss the implementation of Proposition 13 and the subsequent changes in local finance. It will then identify three major unanticipated consequences of the proposition and suggest some policy options that might be considered in dealing with them.

Chapter 2 provides an overview of the events that led to the adoption of Proposition 13 and reviews the actions of the state government in establishing the new local finance system. Chapter 3 describes three consequences that were not part of the debate on Proposition 13 or a central focus of the legislature's implementation actions. Chapter 4 suggests a policy agenda for addressing these unintended consequences.

2. The Adoption and Implementation of Proposition 13: A Chronology

The Adoption of Proposition 13

Rising home prices, leading to an increase in property taxes, coupled with legislative inaction, were trends that generally existed through much of the five years predating Proposition 13. When the California legislature adjourned in the fall of 1977 without passing any significant property tax reforms, even though 22 different reform plans were proposed, voters quickly signed the circulating initiative petitions for the Jarvis-Gann proposition (Jarvis-Gann became known as Proposition 13 because of its number on the 1978 ballot). Proponents argued that the proposition was both a property tax relief measure and a necessary constraint upon the size of government. The legislature reconvened and passed a potential reform (which necessitated a constitutional change) that would appear along with Proposition 13 on the June ballot. Proposition 13 easily passed. The legislature's plan did not.

Although poorly written, the basic rules of Proposition 13 were relatively straightforward. The maximum property tax rate was set at 1 percent of the value of the property. The value of the property was set at its 1975-76 level but was allowed to increase by the rate of inflation, up to 2 percent each year. Property could be revalued only upon a change of ownership. No new *ad valorem* property taxes could be imposed. Any special taxes (which were not defined) needed to be approved by two-thirds of the voters. Finally, the distribution of the property taxes that were collected was to be done "according to law," and since no such law existed, one had to be created. Prior to the adoption of Proposition 13, local agencies established their own separate property tax rates and received the proceeds of the tax. For the first time in the state's history, the state was put in charge of allocating the proceeds of the locally levied property tax, with the rate and base defined by the statewide initiative.

Implementing a New State-Local Finance System

The election that included the passage of Proposition 13 was only three weeks away from the beginning of the 1978-79 fiscal year. Facing a reduction of over $6 billion in property tax revenues for school districts and other local governments, the legislature and the governor responded quickly, passing SB 154. Although this was a one-year implementation statute, it instituted two actions that affected future state responses. First, it increased the state's role in delivering and financing local services by providing block grants to cover the revenue losses of local governments that experienced a reduction in their property tax revenues. Since counties acted as agents of the state, in addition to providing local services, the state also "bought-out" parts of various state-mandated programs, reducing county costs. Second, SB 154 established a formula for the distribution of the remaining property taxes. Prior to Proposition 13, a property tax payer paid different tax rates to the local agencies providing services, including several special districts, one or more school districts, a city, and the county. Proposition 13 mandated one tax rate—1 percent of the assessed value of the property. Since there was one countywide tax rate, the legislature was confronted with the dilemma of allocating a smaller property tax pie to the same number of governments.

Following a year of study and legislative hearings, the legislature, in 1979, adopted AB 8, a long-term response to the fiscal austerity introduced by Proposition 13. AB 8 is still the basic operating legislation, although it has been amended several times. Much of AB 8 is based on SB 154, although the bill is a very complex piece of legislation covering a multitude of topics, including retirement contributions, one-year adjustments, deflator components, and new ways of allocating the collected property taxes.

There were four principal parts of AB 8, three of which are still important:[1]

- A guarantee to cities, counties, and special districts that they would receive their SB 154 property tax allocation plus an adjusted amount of the block-grant aid they received in 1978. The funding for this allocation came from a shift of about one-third of the school property taxes to other local governments. In addition, revenues from assessed value growth in a jurisdiction were allocated proportionally to local governments and schools, based on where the growth occurred. This allocation formula quickly became very complex and is still continually subject to tinkering.
- The state totally bought out the county share of many of the major health and welfare programs, with partial buy-outs of others, such as AFDC.
- State aid to schools was increased to offset the property tax shift to the other local governments. This was used as a way of equalizing school expenditures.

Proposition 13 and AB 8 generated two important outcomes. First, the property tax is no longer a local tax. Proposition 13 sets the rate and base; AB 8—a state law—allocates who gets the receipts. The amount of property tax received by a local agency is a function of its relative share of property tax levied prior to Proposition 13. For example, a city that previously had a relatively high tax rate receives a larger share of the fixed countywide 1 percent property tax rate. Aside from annexation or incorporation, the only way that local governments can affect property tax receipts is through economic development, and even in these cases, they receive only a portion of the revenues. Second, there is a large amount of variation in the allocation of the tax. As Table 1 shows, in 1996-97, cities, on average, received 11 cents out of every property tax dollar collected, counties received 19 cents, schools 52 cents, and other districts 18 cents. Compared to 1977-78, counties get a good deal less while "other" districts get much more. The inter-county range of shares among local governments has generally increased since 1977-78; for example, school districts now receive, on average by county, between 27 and 76 cents out of every dollar. In 1977-78, they received between 34 and 64 cents.[2]

Of course, social institutions continually evolve in response to changing constraints, opportunities, and preferences. And such has been the case for the system of state and local finance in California over the twenty years since the passage of Proposition 13, with the occurrence of at least ten specific fiscal decisions by the legislature and voters.[3] Table 2 illustrates the variety of fiscal

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[1] The fourth element, a trigger mechanism to cut state aid if funds were not available (called the "deflator") was never used.

[2] Within each county, there is a wide range among the specific jurisdictions; for example, the no and low tax cities receive a much smaller share of the property tax allocation than other cities.

[3] John J. Kirlin, Jeffrey I. Chapman, and Peter Asmus, 1994, "California Policy Choices: the Context," in John J. Kirlin and Jeffrey I. Chapman, eds., *California Policy Choices,* Vol. 9, Sacramento and Los Angeles: University of Southern California.

decisions and events that have influenced this evolution.[4] Two themes, however, underlie nearly all of these events: first, a sense of ongoing fiscal constraint imposed by voters attempting to limit government taxing and spending; and second, an increase in state control over local finance that has occurred because of the imposition of many of the voter restrictions. These restrictions included Proposition 13 and Proposition 4 in 1979, which established a system of spending limits. The increase in state control was possible because of the ability of the state to raise revenues at a time when the ability of local governments to raise general purpose taxes had become limited.

Table 1
Allocation of General Property Tax Dollar
(in cents)

		1977-78	1985-86	1996-97
City	Average	10	13	11
	Range	0-15	0-23	0-20
County	Average	30	33	19
	Range	17-74	18-71	10-64
School	Average	53	37	52
	Range	34-64	9-61	27-76
Other	Average	7	7	18
	Range	2-20	3-30	2-29

All averages are statewide averages; all ranges are among counties.
Source: State Board of Equalization, *Annual Report*, miscellaneous years, Table 15

Table 2
Chronology of Fiscal Events

1978	Passage of Proposition 13; passage of SB 154
1979	Passage of AB 8; passage of Proposition 4 (Gann Limit Initiative)
1982	First Certificate of Participation issued; passage of Mello-Roos Act
1986	Passage of Proposition 62 (tax limit), initially held unconstitutional
1988	Passage of Proposition 98
1988	Peak of defense expenditures in California
1988-93	Major droughts, earthquakes, and fires affect California
1990	Passage of Proposition 111; peak of illegal immigration
1991-92	Realignment of functions and revenues among state and local governments
1992-93 and 1993-94	Property tax shift to help state budget (establishment of ERAF)
1993	Trough of unemployment from recession; passage of Proposition 172 (sales tax); redevelopment reform, blight defined
1995	Proposition 62 upheld by California Supreme Court
1996	Passage of Proposition 218 (tax limitation strengthening Proposition 62)
1997	Trial Court financing reform
1998	Vehicle license fee reduced in a complex manner

[4] During this time, California has experienced droughts, freezes, floods, forest fires, urban fires, earthquakes, riots, military base closures, and a recession that was the worst in the state's history since the depression of the 1930s.

In addition to AB 8, 1979 also saw the passage of the Government Spending Limit—Proposition 4 (Gann Limit Initiative). This initiative restricted appropriations for governments, attempted to force the state into paying for imposed mandates, and implicitly encouraged the use of fees for new services because these would not be included under the limit. The limit is less important now because the 1990s recession slowed the growth in tax revenues, while the spending limitation itself continued to grow.[5] In addition, the legislature quickly found ways around the mandated funding provision. Nonetheless, the legitimization of the use of fees became important for local governments.[6]

As tax and expenditure limitations on local government were added in the late 1970s, and as the state influence over local government continued to grow, it is not surprising that the composition of county and city revenues and expenditures would change.

The Changing World of City and County Finance

To understand how the implementation of Proposition 13 has changed the way cities and counties do the public's business, the importance of revenue sources as components of total revenues and the importance of expenditure decisions as components of total expenditures for each level of local government must be examined.

Counties

Counties have multiple roles in California. Since they are the administrative arm of the state, they are responsible for public assistance, public protection, and health. Counties are also responsible for delivering local services and providing local facilities to their unincorporated communities, including law enforcement, waste collection, and roads and parks. At times, counties contract with cities or other public, non-profit, or private agencies to provide some of these services. Counties also perform countywide activities such as assessing and collecting property taxes and operating jails.

Table 3 shows the changes in importance for the components of county revenues. As expected, the role of the property tax has diminished, falling from 33 percent to 12 percent of aggregate county revenues. Almost entirely offsetting this percentage change has been the increase in importance of state funds, which now constitute 42 percent of county revenues. Perhaps as interesting is the fact that there has been no change in the importance of user charges over this period, although the "other" revenue category has more than doubled and now exceeds the property tax component of the budget.[7] One claim that counties often advance is that a very high percentage of their revenue is uncontrollable—i.e., much of the revenue is already earmarked for state- or federally-mandated programs, with the counties having little say in how it will be spent. If this is true, then Proposition 13, which essentially made the property tax uncontrollable at the county level, led to an increase in uncontrollable revenues from about 50 percent of county revenues in 1978 to nearly 76 percent in 1996.[8]

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[5] Four out of 470 cities and none out of 58 counties were at their spending limit in 1995-96.

[6] An unintended but beneficial consequence of Proposition 4 was that it encouraged jurisdictions to establish sinking funds for depreciation and replacement purposes for some of their capital stock. This occurred because depreciation is a legitimate service delivery expense and so could be part of the foundation for establishing a fee.

[7] Other revenues consist of licenses and permits, fines, interest revenues, and miscellaneous revenues.

[8] This is obviously a very simplistic cut. Some state and federal revenues have some elements of controllability if counties took full advantage of accepting the responsibilities of control.

Table 3
Revenue Source Importance, Counties

% of Aggregate County Revenue		
Category	1977-78	1995-96
Property Tax	33	12
Other Taxes	3	3
State Funds	24	42
Federal Funds	26	22
Charges	9	9
Other	5	12
TOTAL	100	100

Source: Author's calculations from State Controller's Reports

Table 4 shows the changes in various expenditure categories for the total of the counties. The two obvious changes are the decline in general government expenditures and the increase in protection expenditures. Proposition 13 passed, in part, because voters believed that the government used resources inefficiently and had a bloated bureaucracy that could be eliminated.[9] General government expenditures include this bureaucracy, and the decline in expenditures in this category reflects a formal response to the desire of voters. However, while the general government overhead category has fallen in importance, nothing much is known about the internal bureaucracy of the service delivery functions of the county. For example, although the importance of the protection function has increased, we cannot know (at least without undertaking case studies) whether the entire increase is an increase in direct service delivery or whether there is now some additional administrative overhead included in the service.

Table 4
Expenditure Importance, Counties

% of Expenditures		
Category	1977-78	1995-96
General Government	19	9
Protection	19	28
Health and Sanitation	14	14
Public Assistance	40	40
Other	8	9
TOTAL	100	100

Source: Author's calculations from State Controller's Reports

The decline in importance of general government overhead might have unintended consequences. A decline in general government can be easily translated into such events as slower permit processing, poor tax administration, or weak responses to regulatory needs. Or if a citizen attempts to contact the county for help with a particular problem, because of the cutback in general

[9] Jack Citrin, 1979. "Do People Want Something for Nothing: Public Opinion on Taxes and Government Spending," *National Tax Journal,* Vol. 32, No. 2 (supplement).

government support it may be more difficult for him to access the system or, once accessed, to find the correct individual to solve the particular problem. If these difficulties multiply, the extent of citizen discontent with county government increases and citizens become either alienated or angry. The first may lead to lower voter turnout at elections; the latter may lead to more voter constraints on government or pressure for micromanagement by legislators, who are anxious to appear to be responding to upset citizens and particular special interest groups.

Cities

Cities are a powerful component of government in California, reflecting the strong belief of the 1879 California Constitutional Convention that cities' home rule capabilities should be protected.[10] California cities focus on ensuring the provision of local services and facilities, with the provision either directly undertaken by the city or contracted for with the county or other public, not-for-profit, or private agencies.

Table 5 compares the sources of city revenues in 1977-78 and 1995-96.[11] In contrast to the counties, the property tax was for cities a less crucial although not unimportant element of local revenue in 1977-78. By 1995-96, the property tax had dropped behind all other sources of revenues in importance for cities. But there were also major shifts in other revenue sources, with declines in the importance of sales taxes and intergovernmental revenues compensated for by increases in service charges and other revenues.[12] Together, service charges and enterprise revenues were the most important sources of revenue in both of these time periods. By 1995-96, over 68 percent of city revenues came from service charges, enterprise income, and other revenues, much of which are under the control of the city. It is reasonable to conclude that city residents are paying for a substantial portion of their services through the price system composed of fees and charges rather than through general citywide taxes such as the property tax.

Table 5
Revenue Source Importance, Cities

% of Aggregate City Revenue		
Category	1977-78	1995-96
Property Tax	16	8
Sales Tax	11	9
Intergovernmental Aid	24	14
Service Charges	6	11
Enterprise Income	26	29
Other	17	29
TOTAL	100	100

Source: Author's calculations from State Controller's Reports

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[10] Alvin D. Sokolow and Peter Detwiler, forthcoming, "State-Local Relations in California," in Plato Rigos, Dale Krane, and Mel Hill, eds., *Home Rule in America: A Fifty State Handbook* Washington, D.C.: Congressional Quarterly Press, p. 9.

[11] Several adjustments were made to the basic Controller data to enable comparisons between these two years. This was necessary because the *Controller's Reports* changed format in 1980-81. Contact the author for details.

[12] Other revenues include such items as franchise taxes, licenses and permits, interest earnings, and sales of property.

Table 6 illustrates the changing importance of city expenditure components. Cities, like counties, have also dramatically cut general government expenditures. They have also cut library and parks, water, gas, and electricity expenditures. Perhaps most surprising is the fact that the percent spent on police has barely changed—it was 15 percent of city expenditures in 1977-78 and 16 percent in 1995-96. Together, however, the public utility/enterprise set of activities now accounts for about 36 percent of total city expenditures, an increase from the 30 percent of 1977-78. It may be that the public prefers city expenditures on these activities; it may be that there are earmarked funds for at least some of the infrastructure (for example, gas tax money for roads and sales tax money for transportation systems) that encourage cities to divert additional resources to these projects; or it may be that because so many of these activities also generate revenue they just grew without conscious decisionmaking.

Finally, the myriad of "other" expenditures has only slightly increased as a percent of the budget over 18 years, although it has remained the largest component of expenditures.[13] What this might be indicating is that cities are adding expenditure categories in a variety of areas which may benefit specific interest groups. From a microperspective, these increases may be difficult for the public to discern; however, they do apparently accumulate to a large sum. They are not hidden, but they are not the focus of much public attention.

Table 6
Expenditure Importance, Cities

	% of Expenditures	
Category	1977-78	1995-96
General Government	13	7
Police	15	16
Library/Parks	10	6
Water, Gas, Electricity	23	18
Other Enterprise	7	18
Other	32	35
TOTAL	100	100

Source: Author's calculations from State Controller's Reports

[13] "Other" expenditures include such items as fire protection, emergency medical services, animal regulation, streets and highways, storm drains, planning, regulation, etc.

3. Some Unanticipated Consequences of Proposition 13

As illustrated in the preceding chapter, there were shifts in sources of revenues for counties and cities and in the way those revenues were spent. But what was not shown, nor could be shown from the data, are three distinct, unanticipated consequences of Proposition 13. These consequences resulted from attempts to maintain revenue flows that were sufficient to fund expenditures demanded by citizens. They reflect the changing nature of public and private institutions over time, and they also reflect the intelligence of many individuals who have dedicated large parts of their professional lives to finding loopholes in Proposition 13 and its implementing legislation. Although these three consequences are listed separately, they are often interrelated and sometimes reflect causality.

Consequence Number One: The Fiscalization of Land Use

Although formally named by Misczynski in 1986, the concept of examining land use decisions in the context of their revenue and expenditure consequences has certainly been recognized since the advent of municipal incorporation and zoning laws.[14] Because Proposition 13 reduced the revenues that would be received from property taxes from any particular development (industrial, commercial, or residential), local jurisdictions began to pay even more attention to the fiscal outcomes of land use decisions. In particular, land uses that generated revenues in addition to property taxes became more important. To the extent that land use decisions are now driven by their fiscal consequences, fiscalization has occurred. There are at least three specific instances of fiscalization activities that have been adopted by local government, as discussed below.

The Sales Tax and Land Use Choices

Local governments receive sales taxes based on two formulas. The principal method, which originated in the Bradley-Burns Sales and Use Tax Act of 1955, generates sales tax revenues as a function of the dollar volume of sales that occurs in a specific jurisdiction. Under this Act, for every dollar of sales, the local government in whose jurisdiction the sale occurred, receives one cent, which goes into the general fund.[15] To the extent that local governments make land use decisions based on this sales tax revenue, they are acting consistently with the concept of fiscalization of land use.

Those local governments that feel fiscal stress or that desire to maximize revenues pay close attention to commercial activity. Of course, there are cities that do not like retail activity and carefully zone out major retail centers, just as there are cities that will do anything in their power to generate large sales tax revenues. (In 1996-97, per capita sales tax revenues ranged from $2.57 in Bradbury to $55,504 in Vernon). There are two popular ways (at least among elected officials) of

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[14] Dean Misczynski, 1986, "The Fiscalization of Land Use," in John J. Kirlin and Donald R. Winkler, eds., *California Policy Choices*, Vol. 3, Sacramento, California: University of Southern California.

[15] Counties only get the one cent if the sale occurs in an unincorporated area. In addition, counties also receive 1/2 cent for each dollar of sales within the county, which is then divided by formula among all local governments within that county based on the ERAF shift and which is dedicated to public safety. See the property tax shift discussion under the third set of consequences for more discussion of this 1/2 cent.

generating a large amount of sales taxes from a small area: "big-box" retail and car dealerships.[16] It is not surprising, then, to see cities compete for these types of activities. Most jurisdictions trying to maximize sales tax revenues choose to encourage these types of development over residential development, which generates sales tax revenue only to the extent that the new residents shop in the same city in which they live. It is not surprising to observe the owners of big-box retail and car dealerships attempting to obtain economic incentives for locating in a particular jurisdiction.

Redevelopment as a Municipal Revenue Generator

Beginning in the early 1950s, California became the first state to use the technique of tax increment financing as a development tool. Under this process, a local jurisdiction first forms a redevelopment agency, which is authorized by statute under the general provisions of the state constitution. This agency then declares a section of the jurisdiction to be "blighted." Any increase in the property tax receipts (the property tax increment) that occurs after this designation is shared by the redevelopment agency and overlapping jurisdictions (by formula since 1994). The goal is to ensure that redevelopment does occur and thus a tax increment will be generated. For this to occur, debt is issued by the redevelopment agency, with the proceeds of the debt issuance going to improve the blighted area. As this improvement is occurring, developers are moving in and causing an increase in property value, which in turn generates the property tax increment. This tax increment funds the debt.

Although the initial predictions concerning the efficacy of the technique were negative, the dire concerns were not realized.[17] Rather, the use of this technique expanded: there were 197 agencies in 1980 with 300 project areas; by the end of 1996, there were 399 agencies with 744 project areas. The total increment generated by the projects was about $1.4 billion.[18] It may be that after Proposition 13, many cities attempted to use tax increment financing to alleviate some of the fiscal pressures caused by the initiative.[19] Certainly, much of the redevelopment was used to attract commercial activities that would generate substantial sales tax revenues, while new housing was often not encouraged because it generated less sales taxes and produced a smaller tax increment.

There are at least three reasons for the increasing use of this tool to fight off fiscal stress. First, until 1993, blight was a very loosely defined concept, and so almost any parcel, whatever its state, could be deemed blighted and thus in need of redevelopment. Under certain conditions, even undeveloped land could be considered blighted (for example, if it were in a flood plain).[20]

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[16] Shopping malls are also very popular but tend to use more land.

[17] Merrill Lynch Pierce Fenner and Smith, Inc, 1979, *California's Tax Allocation Bonds: Victims of Proposition 13,* (October), New York: Merrill Lynch Pierce Fenner and Smith, Fixed Income Research.

[18] Note that if the area were not blighted and the same amount of growth would have occurred without the redevelopment agency, then about $700 million would have gone to the school districts that included the area since schools get about 50 percent of the collected property tax. Since the state backfills school finance (up to a specified level), this becomes a very large state redevelopment program that the citizen never recognizes.

[19] Other studies, using other states as the data source, come to a similar conclusion that redevelopment activities increase as local public fiscal stress increases. See Joyce Y. Man, 1999, "Fiscal Pressure, Tax Competition, and the Adoption of Tax Increment Financing," *Urban Studies*, Vol. 37, No. 7.

[20] Blight is now more rigorously defined in statute, although the potential for misuse is still clearly present.

Undeveloped land, of course, generates very large tax increments as it is developed. Second, the use of redevelopment debt to finance infrastructure does not need voter approval. Residents are often unaware of the magnitude of the debt that has been issued or the size of the increment. Since about 80 percent of the total redevelopment projects are greater than 100 acres,[21] the projects are likely to include vacant or undeveloped land and therefore need new infrastructure. Tax increment financing helps to provide the financing for this infrastructure. Finally, redevelopment activities can be used as a weapon in the interjurisdictional fight for economic growth. Companies can be encouraged to relocate with the promised benefits of new infrastructure to be provided by the redevelopment agency. To the extent that this is a business relocation decision rather than a new development decision, it is a negative sum game, simply because of the transaction costs involved.

An obvious question concerning this type of redevelopment activity is whether or not it works in stimulating economic redevelopment. The few studies that analyze this indicate that the technique does work—property values do increase faster in redevelopment areas than in non-redevelopment areas, but one study finds that less than 50 percent of the increase occurs because of the use of the technique.[22]

Development Fees: Internalizing the Costs of Public Capital and Services

Prior to Proposition 13, infrastructure for new developments was often financed by community-wide, broad-based taxes and debt. After Proposition 13, there was a movement away from these methods to those methods that raised revenues from the new development itself. Development fees were often part of this method of internalizing the costs of the new infrastructure and service needs.

Although development fees have been increasing in importance in both slow and fast growing areas, their scope is much larger in new, fast growing areas.[23] Because California has experienced such rapid growth over the past decades, and given the fiscalization constraints, it is not surprising that development fees have risen rapidly since Proposition 13.

In theory, development fees are strictly regulated in California. Before a fee can be imposed or increased, the local government must identify its purpose and use, determine how there is a reasonable relationship between the development project and the fee's use, and determine that there is a reasonable relationship between the amount of the fee and the cost of the infrastructure financed by the fee.[24] In addition to cities and counties, since 1986 school districts can also impose fees on

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[21] California State Controller, 1997, *Community Redevelopment Agencies Annual Report, 1995-96* Sacramento, CA.

[22] See Michael Dardia, 1998, *Subsidizing Redevelopment in California,* San Francisco: Public Policy Institute of California. Further, Joyce Y. Man and Mark Rosentraub, "Tax Increment Financing: Municipal Adoption and Effects on Property Value Growth," forthcoming in *Public Finance Review,* find, for Indiana, that median owner-occupied housing values were about eleven percent higher in tax-increment districts because of the redevelopment activities.

[23] See Alan A. Altshuler and J.A. Gomez-Ibanez, 1993, *Regulation for Revenue: The Political Economy of Land Use Exaction.* Washington, D.C.: The Brookings Institution; see also Marla Dresch and Steven M. Sheffrin, 1997a, *Who Pays for Exactions and Development Fees?* San Francisco: The Public Policy Institute of California. The more general term for this type of finance is *exaction.* Exactions are either developer payments or dedications of specific areas for public use (for example, parks and streets). The developer offers exactions in return for governmental approval to proceed with the project.

[24] These are the main conditions. There are several other restrictions, including determining the need for the infrastructure as well as accounting and reporting disclosure techniques. Also note that fees cannot be based on the *ad valorem* value of the property.

both residential and commercial/industrial new construction. As of July 1996, the maximum for these fees was $1.84 per square foot for residential projects and 30 cents per square foot for commercial and industrial developments.[25] In addition, whenever cities and counties engage in legislative land use activities, such as amending the general plan or changing zoning, they can impose their own school construction fees in addition to the fees imposed by the school district. The total of school, city, and county fees faced by some developers, have exceeded $9 per square foot.[26] The controversy surrounding the 1998-99 state budget partially revolves around these fees for schools, with some proponents of fee mitigation also arguing that General Obligations bonds should have a lower approval threshold than a 2/3 vote.[27]

Dresch and Sheffrin have conducted the most detailed analysis of development fees in California.[28] Studying fees in Conta Costa County between 1992 and 1995, they found that average development fees per unit ranged from $252 for community redevelopment purposes to nearly $13,000 for water and sewage. There are also permit fees, traffic fees, fire fees, park fees, and school fees imposed by school districts. These fees totaled over $16,000 per dwelling unit in the east Contra Costa county area and over $24,000 per unit in the west county area.[29] Dresch and Sheffrin also found variation when they reaggregated the fees by city, discovering a difference of nearly $7,000 per dwelling unit between the highest and lowest fee-charging jurisdictions in the east county and a difference of about $8,000 per unit in the west county.[30]

A final component of any fee discussion concerns its incidence.[31] It is not unusual to find developers arguing that, on the one hand, fees are eating up their profits and driving them out of business and then, on the other hand, arguing that the fees will increase the price of the home and thus the poor mortgage holder will be paying off developer fees (with interest!) over the next thirty years. The true determination of the incidence is a difficult empirical problem. Again, Dresch and Sheffrin's study bears citing—they found that in eastern Contra Costa County, for every dollar of fees, housing prices went up by 25 cents, and for the western county, each dollar of fees generated an increase in housing prices of $1.88 (although the latter figure was statistically not significantly different from $1.00). They also found that in the eastern part of the county, a dollar increase in fees and assessments on new homes increased the price of exiting homes by 23 cents, perhaps because higher prices for new homes influenced the price of older homes or because the expenditures from

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[25] The legislative intent was to have a threefold way of financing schools—state General Obligation bonds, local General Obligation bonds, and development fees

[26] See Marla Dresch and Steven Sheffrin, 1997b, "The Role of Development Fees and Exactions in Local Public Finance," *State Tax Notes*, December 1, 1411-1416.

[27] The final agreement was that in exchange for putting a $9.2 billion school bond issue on the November 1998 ballot, restrictions would be placed on developer fees and the 2/3 vote requirement would be kept intact.

[28] Dresch and Sheffrin, 1997b, *op. cit.*

[29] The average selling price of an east county house was about $200,000; the average selling price for a west county house was about $400,000.

[30] A City of Davis study, as cited in Dresch and Sheffrin (1997b), found that there can also be variation of fees within a city, with an 1,800 square foot house paying between $8,600 and $10,000 in major project financing fees, depending upon its location in the city. More importantly, at least for Davis residents, are the costs of Mello-Roos financing, which range from zero in one section of town to over $22,000 in another section. See the subsequent discussion of Mello-Roos financing.

[31] For a sophisticated theoretical incidence analysis of fees and assessment districts, see John Yinger, 1998, "The Incidence of Development Fees and Special Assessments," *National Tax Journal*, Vol. LI, No. 1, (March).

the fees and assessments provided community-wide benefits which were capitalized into the prices of older homes. Confounding the analysis was the decline in housing prices throughout California during portions of the study period.

In any case, it is clear that fees and dedications now play an important role in California's local finance. These fees are often hidden from the homeowner, and their incidence is at times, unclear. They are controversial, but the increase in their use is closely related to government trying to avoid a fall in revenues because of the Proposition 13 constraints.

Consequence Number Two: The Growth of Arcane Finance Techniques

Perhaps the most important insight that can be gained from the passage of Proposition 13 is that blunt initiatives lead to the development of other ways of getting things done. These other ways are usually more complex, more expensive, and typically are not discussed in public forums in ways that are intelligible to the public and elected officials. The world is full of very bright and ingenious people who delight in ways of circumventing poorly drafted initiatives. The result is a finance system that is not easy for the public to understand. This next section of the paper will illustrate this trend, examining five different examples of complex financing techniques.

Assembly Bill 8 and the Allocation of Property Tax.

Over the last 19 years, the AB 8 property tax allocation system has become more complex. It is continually tweaked to take into account particular exigencies of local jurisdictions—for example, cities with low or no property taxes or enterprise and nonenterprise special districts. In addition, the numbers within the nine-step AB 8 property tax allocation formula, over time, become extraordinarily difficult to track, and thus reliability is sometimes questionable. Within a few years of AB 8's introduction, state auditors found significant discrepancies between what they thought the allocation should be and what the local governments were actually receiving.[32]

As noted earlier, parts of AB 8 involved bail-out and buy-out provisions. Over time, while the costs of these provisions mounted, local governments began to regard these activities as entitlements. When the state entered a recession in the early 1990s and notified local governments that the property tax allocation they were receiving was not an entitlement and then shifted the allocation to fund education, there was great consternation on the part of local governments, especially counties. The Education Revenue Augmentation Fund discussion under the third set of consequences will re-examine this particular property tax shift.

The result of this complex and creaky method of distribution is a tendency for local officials to accept the resulting allocation as an exogenous input into the budgetary process. This further encourages the belief that the property tax is a state, not local, tax and encourages a continual search for other revenue streams that are more dependable and controllable. This does not imply that the property tax is an unimportant source of revenue for localities—it is just to say that the portion they receive from it is very difficult to determine in a simple manner.

[32] As a city finance director remarked, in commenting on the allocation of redevelopment revenue, "...if you've ever read [Sections 95 through 100 of the Revenue and Taxation Code (R&T)], you already know that obtaining a good understanding of the R&T may never be possible." Greg Johnson, 1998, "County Auditor's Association Changes Guidelines for Calculating Property Tax Administration Costs," *CSMFO Mini-News,* April.

Education Finance

Education finance was difficult to understand even before the passage of Proposition 13. Prior to the Serrano court cases, school funding was a shared state-local arrangement, with the state guaranteeing a base level of general purpose funds for each pupil and the local districts using their control of property taxes to raise the per pupil funding to the amount the district wanted to spend. The Serrano court cases, which began in 1968 and finally concluded in the mid-1980s, focused on the property tax and its alleged inequities as a funding source for school districts and mandated a financing plan that was not property tax dependent.[33] Between Serrano and 1978, the state became more heavily involved in school finance and complex formulas considering both foundation support and revenue limits. Although school districts did have limited ability to raise the property tax , it was clear that any property tax reform passed by the legislature would have to deal with a non-property-tax school finance plan.

After the passage of Proposition 13, educational finance was re-addressed, with school districts receiving a portion of the property tax (through the AB 8 allocation formula) and direct payments from the state. Until about 1985, California's spending per average daily attendance was roughly equal to the U.S. average. Starting in about 1985, California's spending began to increase at a slower rate, and it actually fell during the early 1990s. In 1988, in an attempt to maintain stability in school funding, the California Teachers Association sponsored Proposition 98, which established a minimum floor for funding K-14 schools (at the time of passage, this was about 40 percent of the state's General Fund). This funding constitutes about three-fourths of overall K-12 funding. Because it was tied to the state's budget, it indirectly affected the state's fiscal relationships with other entities; as spending on schools increased, less was available for other types of state expenditures. By 1989, the Proposition 98 formula was found to be too binding, and in 1990 the formula was modified by Proposition 111, which reduced the school financial aid requirements if certain fiscal stresses existed at the state level. In particular, in no- or low-revenue growth years, the state was allowed to modify the formula through a complex series of adjustments.

There are now three formulas that can be used to determine the minimum level of funding, with the largest amount of money calculated by any of the formulas being what the schools actually get. There are five major factors involved in the calculations: General Fund revenues, state population, personal income, local property taxes, and K-12 average daily attendance. These factors change during the year, and thus there are changes in the minimum guarantee. The Governor then must provide "settle-up" money to ensure that any increase in the previous year's guarantee is funded. The current minimum, reflecting changes since the original Proposition 98, is about 34.5 rather than 40 percent of General Fund revenues.[34]

Retrospectively, in many of the years since 1988, Proposition 98 has acted as more of a ceiling than a floor. The minimum was funded and then the state turned to other activities. Even funding this minimum caused pain during the California recession, and many budget games (some of which were stopped by the Courts) were played to ensure that the mandated floor would be reached. Proposition 98 funding and its implications have now become as difficult to understand as AB 8. For

[33] *Serrano v. Priest,* 96 Cal. Rptr. (60) (1971). See also *Serrano v. Priest*, 135 Cal. Rptr. 45.

[34] The lower minimum reflects the ERAF property tax shifts of 1992-93 and 1993-94, which will be discussed later in the paper.

example, the new vehicle license fee tax reduction was implemented partially because it has no Proposition 98 implications, since it is not a General Fund revenue source.

In the past, local school districts were always heavily dependent on state aid (and faced state mandates). However, with Proposition 13 eliminating the ability of local school districts to raise property tax rates for their schools, and with Proposition 98 establishing a floor (or ceiling, depending on the economy and legislature), for all practical purposes, aggregate school finance is now almost entirely centralized at the state level, and school districts are now passive recipients of state revenues.

Financing Capital Facilities

Prior to Proposition 13, capital finance was relatively straightforward. If a local government wanted new infrastructure, it would go to the voters and ask for approval of either a General Obligation bond or a revenue bond. Or, it would save enough money to engage in pay-as-you-go financing. For the first eight years after Proposition 13, the first option was constitutionally unavailable; the second option was unpalatable because of the fear of voter revolt; and the third option was impossible because of shrinking discretionary general purpose revenues, including the property tax.[35] To further complicate matters, there is a difference between the problems of capital finance in a developed area and capital finance in an undeveloped area. In developed areas, where little new construction occurs and development fees are not usually large enough to support the necessary infrastructure, two techniques have evolved. The first has already been discussed—the increased use of redevelopment finance through the use of tax increment financing techniques. The second has been to use Certificates of Participation (COPs). In the decade between 1985 and 1995, about $28 billion in General Obligation bonds were issued by California state and local government, compared to about $40 billion in COPs.

The Certificate of Participation has several attributes which make it easy to use. Its issuance does not require a vote of the general public; it can be initiated and passed by a local legislative body. Technically, the COP is issued by a non-profit body established by the relevant legislative body. The non-profit organization then takes the proceeds from the issuance and provides the infrastructure or other capital (for example, city halls or police cars are sometimes purchased using a COP technique). The legislative body has previously agreed to rent the asset from the non-profit, and thus the non-profit receives an income stream to be used to retire the debt, with the COP holder being paid through a trustee. The money that is used by the legislative body to pay the non-profit for the use of the infrastructure comes from the General Fund, although there are many cases of jurisdictions finding other funding sources for this flow of rents. For example, if the jurisdiction has another asset that is generating an income flow (such as an airport or harbor), that income stream can be pledged as a revenue source. Because the COP is not a debt instrument, but rather a multi-year promise of sharing a revenue stream, this instrument does not count against any legal limitations on the amount of debt that can be issued by the jurisdiction. COPs can become quite complex and are not well known by the public, but because they are so easy to issue (until recently, some jurisdictions approved them on the consent calendar), they have become exceedingly popular at all levels of California

[35] In 1986, the voters approved an amendment to Proposition 13 that allowed the issuance of General Obligation bonds approved by a two-thirds vote.

government. Approximately $7 billion of COPs were issued in 1996 and 1997.[36] Note though, that ease of issue does not imply ease of understanding, either by the public or legislative body.

Historically, infrastructure for new development was funded by debt issued and paid for by existing residents through the General Obligation bond process. Now, it is much more likely that the new development will have to finance its own infrastructure as well as fight off efforts of existing residents to have the new development provide some goods and services (for example, parks) for the entire community.[37]

In addition to the previously discussed development fees, another method of financing infrastructure for new developments is a new type of debt instrument—the Mello-Roos bond. About $6 billion of Mello-Roos debt was issued between 1985 and 1995.[38]

Mello-Roos debt (named after the two legislators who carried the legislation in 1982) is used to finance any infrastructure or selected services in a geographically defined piece of land called a community facilities district. This area, which is usually undeveloped, can be irregularly shaped and may be drawn with "holes" to exclude particular sections (usually, the excluded sections are those that are developed). Two-thirds of the voters of the area, or landowners representing two-thirds of the land in the area (who have votes distributed based on the amount of land they own), can vote to issue debt for capital improvements in the community facilities district (or to finance service provisions). Upon issuance of the debt, a lien is placed against the property in the area. As the property is subdivided, each individual homeowner is responsible for the payment of a share of the debt (which shows up on the homeowner's property tax bill). Initially, this share did not have to be disclosed when the property was bought, but legislation has been enacted to force disclosure. The local jurisdiction is not the agency that issues the debt and is therefore not legally responsible for the security of the debt.

Operationally, Mello-Roos debt has replaced at least some of the property tax that the homeowner might have faced prior to Proposition 13 (the part that related to General Obligation financing). Since Mello-Roos debt is more expensive than General Obligation debt because of its higher risk, the payment by the homeowner is higher than what would have been faced prior to Proposition 13. Anecdotally, there are stories of homeowners making Mello-Roos payments that are larger than their property tax payments, and there are billboard signs for new developments that advertise "No Mello-Roos." In 1996, $600 million of Mello-Roos debt was issued; in 1997, $677 million was issued.

Assessment Districts

Another method of financing government activities is the establishment of an assessment district that has the ability to levy a charge that pays for a public facility or service in direct relationship to the benefit that the facility or service confers on the property. These charges or assessments are authorized by more than a dozen specific laws, and nearly every type of governmental jurisdiction can use one type of assessment district or another. Since the benefits of

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[36] For a case study on the misuse of COPs in California, see Craig L. Johnson and John L. Mikesell, 1994, "Certificates of Participation and Capital Markets: Lessons from Brevard County and Richmond Unified School District," *Public Budgeting and Finance,* Vol. 14, No. 3.

[37] Construction taxes are legal in California and have been used to finance community-wide benefits. See Dresch and Sheffrin, 1997b, *op. cit.*

[38] Mello-Roos debt can be used in developed areas but seldom is because of the difficulty of approval.

the investment or service financed by the district precisely equal its costs, there should be no net effect on the prices of either land or housing because of the district.

There are apparently thousands of different assessment districts throughout the state. They are used to finance everything from landscape development to flood control infrastructure to the maintenance of sewers. Citizens typically see assessments once a year on their property tax bills and then attempt to figure out what the cryptic notations really mean. Slightly over $1 billion in special assessment debt was issued during 1997; however, only about $250 million was issued during the first six months of this year, possibly reflecting the impact of Proposition 218.[39] Before the passage of Proposition 218, property owner protests were the only traditional way to stop the formation of assessment districts. Now, an affirmative vote of the property owners is needed to begin the district's implementation, which might possibly lead to even longer ballots.[40] And, with the reduced number of people voting and with supermajorities being demanded, there is a greater likelihood of a slowdown in benefit assessment financing.

Entrepreneurial Activities

The fiscal stress associated with the decline of property tax revenues gave rise, at least in some jurisdictions, to the implementation of public entrepreneurism. With the publication of the Kirlin and Kirlin seminal volume in 1982, being called a public entrepreneur became legitimate and local administrators throughout California began to publicly call themselves such.[41] Public entrepreneurs are willing to take more risks and are more aggressive in undertaking activities that increase the revenue flows in their jurisdiction.

One set of entrepreneurial activities revolved around generating new economic development. The increase in redevelopment finance activities has already been mentioned, but there are several other ways in which a jurisdiction can stimulate development and reap the benefits of increased sales taxes, employment, and at least some property taxes. There are at least three different (but often interlocked) methods through which this can be accomplished.

1. Become a partner with a private developer. At least one jurisdiction in California partnered with a private developer in building a shopping mall. As the profitability of the shopping mall changes, the city receives a changing revenue stream. In exchange for this revenue stream, the city helped change some of the zoning restrictions and provided some of the infrastructure. If the shopping mall makes no profit, there is no revenue stream, so the city is taking a legitimate risk.

2. Give a direct tax subsidy to a private firm or developer. In these cases, tax abatements are used either to entice a firm to locate in a particular area or to ensure that an existing firm does not leave the area.[42] There are instances in which public utility rates for some firms have been slightly

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[39] California Debt and Investment Advisory Commission, 1998a and 1998b, *Debt Line,* Vol. 17, Nos. 7 and 8, July and August. Proposition 218 is the most recent tax limitation measure passed by California voters.

[40] Assessment ballots do not require a supermajority vote; however, the votes are weighted by the dollar amount of the property owner's assessment liability.

[41] See John J. Kirlin and Anne Kirlin, 1982, *Public Choices—Private Resources.* Sacramento, CA: California Tax Foundation. It is interesting that the term "civic entrepreneur" is now being used by private sector individuals who are attempting to solve public problems.

[42] The debate is still ongoing as to the efficacy of these techniques. See William F. Fox and Matthew N. Murray, 1998, "Incentives, Firm Location Decisions and Regional Economic Performance," in

increased in order to lower rates for a firm that the city wanted to keep.[43] In other cases, the jurisdiction hopes that the economic growth that tax subsidies stimulate (or at least maintain) will offset the initial loss in tax revenues. To the extent that these subsidy techniques work to attract a firm from within the state, this is a zero (or even negative) sum game, since one jurisdiction's gain is another jurisdiction's loss.[44] Redevelopment financing is often utilized as part of the attraction process.

3. Enter into sophisticated public-private development agreements. These are neither full-fledged partnerships nor direct tax subsidies. Rather, they are complex contracts in which the jurisdiction negotiates with a developer or series of developers. The jurisdiction agrees to provide certain services, help finance others, perhaps through assessment districts or tax increment financing, and ensure adequate zoning for the needs of the developers. In turn, the developers contract to provide specific types of housing and industry. One goal of many of these agreements is to ensure that lawsuits will not stop the development.

In all three of these activities, the contracts and agreements are very complex, technical, and not easy for the citizen to accurately analyze. In many cases, hundreds of millions of dollars are committed through these agreements and subsidies. In some cases, they may not work out as initially intended; for example, the arrangements between the City of Oakland, Alameda County, and the (then) Los Angeles Raiders football team has already generated several unexpected short-term fiscal consequences.

There is another type of fiscal entrepreneurship that rarely occurs, but when it does, chaos erupts. This is when the jurisdiction's treasurer uses high-risk sophisticated products that are available for investment purposes (Chapman, 1996). In Orange County, for several years the Treasurer generated returns on investments that far exceeded the returns obtained by other County Treasurers. He was able to do this through the use of some very complex derivative products made available by some investment firms. The revenue flow certainly helped the county avoid some of the fiscal problems generated by Proposition 13; however, since other counties did not follow Orange County's lead, it is difficult to attribute this investment strategy to Proposition 13 fiscal stress. In any case, interest rates did not follow the pattern that the Treasurer forecasted and the county lost over $1.6 billion.[45] It is not altogether clear that the Orange County elected officials or the participants in the investment pool (school districts and some other special districts) completely understood the types of investments that the Treasurer was making. Nor is it clear that they knew what investment strategies were being followed.

Helen F. Ladd, ed., *Local Government Tax and Land Use Policies in the United States.* Northampton, MA: Edward Elgar.

[43] Mike McCarthy and Lynn Graebner, 1997, "County Subsidy of Industrial Utility Rates Violates Proposition 218," *Sacramento Business Journal,* Vol. 14, No. 8, May 12.

[44] Some of these techniques might now be illegal under Proposition 218 (see McCarthy and Graebner, *op. cit.*).

[45] For a detailed examination of this, see Mark Baldassare, 1998, *When Government Fails: The Orange County Bankruptcy.* Berkeley: University of California Press and the Public Policy Institute of California.

Consequence Number 3: Increase in State Control over County Finance

Because the state had a large surplus in 1977-78, it was able to institute a series of financing shifts that allowed it to buy-out, bail-out, and otherwise help local governments. Over time, sometimes intentionally and sometimes unintentionally, the state has made a series of decisions that has led to it being a dominant financial player in local governments' financial decisionmaking. As illustrated earlier, this is especially true in the case of counties. The state reached this position through a myriad small decisions and the two major ones discussed below.[46]

Control of the Property Tax

The first sign of a new era in state-local relations came in 1979 when the state established a long-term fiscal relief plan that involved the transfer of property tax from school districts to other local governments. Then, in 1988, as part of a realignment of the financing of the trial courts, the legislature shifted property taxes from counties to selected cities that had either no shares or very small shares of the property tax (these are known as the "no and low" property tax cities).

The set of state activities that indicated increased state control of local finance were the two formula changes in the property tax allocation, one in 1992-93 and the other in 1993-94. The net result of these changes was an ongoing shift of property taxes away from cities, counties, and special districts to schools.[47] The increase in the schools' property tax revenues decreased the obligation from the state's General Fund to the schools. The absolute level of school finance was not affected, but the state's responsibility was reduced, while counties and cities felt the pain.

The rationale for this shift can be traced back to AB 8. In that legislation, as earlier noted, the state gave relief to local jurisdictions to offset losses suffered under Proposition 13. AB 8 reduced county health and welfare costs by increasing state aid and also shifted some of the property tax revenues from schools to cities, counties, and special districts. The state backfilled the schools' property tax loss with money from the General Fund. The state computes that the current value of this annual AB 8 relief to local governments exceeds $6 billion. When this is compared to the new property tax shifts which are now about $3.4 billion per year, the state's rationale is understood—local government is still receiving a net bail-out from the state for Proposition 13.[48] Of course, those local governments that had spent the last fifteen years using this money believed that it would never end, and they were deeply affected when the shift occurred.

This shift was not simple. County auditors are required to deposit some of the property taxes that had previously gone to the local jurisdictions into a new, countywide fund for schools called the "Educational Revenue Augmentation Fund" (ERAF). The ERAF funds are then distributed, by formula, to schools. The shift of property taxes into this fund essentially reflects the AB 8 benefits that local jurisdictions had received and, as such, it led to a wide variety in the distribution of the tax money—for example, almost twenty percent of the cities saw no shift in 1993-94 because they were incorporated after 1978 and so never received any AB 8 assistance. The average county lost about

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[46] As mentioned earlier, the state has also continued to enact a series of Trial Court financing reforms, with the latest, enacted in 1997-98, generating about $350 million in relief to cities and counties beginning in 1998-99.

[47] Redevelopment districts also initially lost some property tax revenues; however, this loss was quickly phased out.

[48] Legislative Analyst's Office, 1996a, "Reversing the Property Tax Shifts," April 2, Sacramento, California.

40 percent of its property taxes (about \$50 to \$70 per capita), although some counties lost considerably more—for example, Los Angeles County lost about \$100 per capita.[49]

Some mitigating measures were passed that helped local governments accommodate at least a portion of the shift. The 1/2 cent sales tax that the state imposed to help solve the 1991-92 budget gap and that was to sunset in July 1993 was ultimately retained (it took a statewide vote in November 1993 to do so) and was given to the counties to re-allocate to the cities and the county based on the extent of property tax transfers. In 1995-96, this 1/2 cent sales tax raised about \$1.5 billion for counties and about \$90 million for cities, offsetting about half of the ERAF shift. There is a good deal of variation among counties in these replacement revenues—for example, Alpine County had about 99 percent of its ERAF shift replaced, Sierra County had about 30 percent replaced, and Los Angeles County had about 40 percent replaced.[50] This sales tax is earmarked for public safety and now has a maintenance of effort requirement. There were also some increases in the vehicle license fee subventions to cities and counties and a mandate relief bill that allowed counties to reduce General Assistance by about 25 percent if the county could demonstrate that it was in significant financial distress.

Again, note the centralization of fiscal power in this history. Clearly, the property tax is now really a state tax—combined, cities and counties now get only 30 cents out of every dollar paid in property taxes. Further, the state ignored chances to lessen the shift in property tax revenues and has continued with its own agenda. Even in its mitigating help, the state has mandated how the sales tax revenues are to be spent.

Sorting Out the State-County Relationship

Although Proposition 13 highlighted the controversy between state and local control, the issue of the state-county relationship has been with us since the adoption of the 1849 constitution. As mentioned earlier, counties act as agents of the state for a variety of health and social service programs. This relationship varies on a program by program basis and changes over time. For example, the 1991-92 state budget initially faced a \$14.3 billion gap between expected revenues and ongoing expenditure requirements. As part of the solution of this deficit, the state "realigned" some responsibilities between the state and the counties. The counties would receive extra revenues and, in return, would absorb extra responsibilities from the state. This was a formal response to a series of ad hoc cost and revenue shifts from the state to the counties during the 1980s that led to a complex system of health and welfare finance.[51] Realignment was an attempt to sort out this system in a more rational manner.

Realignment had three components: program transfers from the state to the counties; changes in some cost-sharing ratios between the state and the counties, and increases in the state sales tax and vehicle license fees that were earmarked for the transferred programs. The major activities transferred included mental health, public health, and indigent health programs. The cost-sharing changes, some of which were quite dramatic, were nearly all in the social service area. For example,

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[49] Legislative Analyst's Office, 1996a, *Ibid.*

[50] These are 1993-94 numbers, after Proposition 172 had taken full effect. For 1997-98, Alpine had dropped to 57 percent of its ERAF shift, Sierra had risen to 57 percent, and Los Angeles had about 46 percent of its losses replaced. Also note that Trial Court funding relief is not included in these calculations.

[51] See the Legislative Analyst's analysis of realignment in "Making Government Make Sense", 1993, *The 1993-94 Budget: Perspectives and Issues,* Sacramento, California: Legislative Analyst's Office.

AFDC-Foster Care went from 95 percent state-funded to 40 percent state-funded, In-Home Supported Services went from 97 percent state- funded to 65 percent state-funded, and the state welfare-to-work program (GAIN) went from 100 percent state-funded to 70 percent. The state did increase its share for AFDC-Family Group and for county administration. The state did not relinquish its authority to set eligibility criteria for these programs, so counties did not recognize an increase in control for the crucial elements. The total increase in county expenditures was estimated to be slightly more than $2.2 billion.[52]

To cover this cost increase, the state raised its sales tax by 1/2 cent and increased the revenues to the counties from vehicle license fees, increasing the depreciation schedule so that higher valued vehicles paid more in fees for a longer time. The revenue stream that the counties received from these sources was generally earmarked for specific programs, and they had only a limited ability to transfer revenues among programs. Originally, it was anticipated that there would be enough money raised by these increases in taxes and fees so that the counties would be held harmless. However, principally because of the recession, there was an immediate shortfall of about $150 million, and this would grow to about $229 million in the following year.[53]

Realignment did provide a steady stream of revenue to the counties, and a degree of flexibility in its use. Some also claim that it was a beneficial change for the counties, even if the revenues were not as high as anticipated, because the state did not take the opportunity to make severe cuts in social services. Some mental health practitioners believe that the new-found stability in the revenues for their programs have led to better resource allocation planning. In addition, some of the more expensive interventions in the foster care programs have declined.[54]

There has been no formal evaluation of realignment, although several years ago the Legislative Analyst gave it generally acceptable reviews, with the caution that it was still evolving and careful oversight was necessary (LAO, 1993). This caution needs to be re-emphasized today—some of the programs no longer exist (for example, AFDC has been replaced by TANF) and with the expanding economy, revenue flows have obviously changed. Overall, realignment is a positive step in helping define state-county relationships. It illustrates that unexpected changes can be positive as well as negative. However, the underlying relationships, while perhaps clarified, have not changed: the county is still the agent of the state in providing services, the state still sets eligibility criteria for most welfare programs and sets the formula for how services are to be financed; for example, as the counties discovered this year, the state can change the vehicle license fee. Since it is unlikely that any county could successfully increase its sales tax rate to fund health and welfare programs, and since property taxes are immutable, the counties are still controlled by the state.

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[52] Legislative Analyst's Office, 1992, *The 1992-93 Budget: Perspectives and Issues,* Sacramento, California, p. 107.
[53] Karen Coker Kesslar, 1994, "Realignment Data Project Report #1," March 6. (Unpublished).
[54] Jeffrey I. Chapman, 1995, "California: The Enduring Crises," in Steven D. Gold (ed.), *The Fiscal Crises of the States.* Washington, D.C.: Georgetown University Press.

4. Conclusion: Dealing with the Unintended Consequences

The three sets of consequences identified in this paper (fiscalization of land use, development of arcane finance techniques, and the increase of state control over local finance) were not immediately anticipated when Proposition 13 passed. Taken together, these consequences have had dramatic effects on governance in California. Land use decisions are often based on fiscal effects, the public finances of the state are impenetrable to citizens as well as many experts, and cities and counties have found themselves with less fiscal autonomy and thus are less likely to be able to respond to citizen needs and preferences. Outlined below is a policy and research agenda that policymakers and interested citizens might consider for addressing these consequences.

Public Policy Reform Agenda

The core provisions of Proposition 13, the 1 percent tax rate limit, the acquisition-based assessment system, and the vote requirements for state and local taxes will not be repealed in the foreseeable future. Any public finance policy reforms must take place in that context. Further, if a closer connection between the government and the citizenry is to be made, any reforms must also deal with the system design questions of how legitimate decisions should be made and carried out. The following, non-mutually exclusive policy agenda should prove useful in confronting some of the unintended consequences of Proposition 13.

Dealing with the Fiscalization of Land Use

Any reforms in this area should recognize that economic growth, job creation, and environmental protection should be considered in land use decisions. Raising the level of discussion to include more than simply the local budgetary benefits of a particular land use choice would be an important first step.

1. Review development projects in a broader context.

Because of the increased importance of sales taxes for cities, there is a tendency for local governments to encourage retail over residential construction. Yet, California's population continues to increase, and somehow these new residents must be housed. Developing a regional context for making choices between competing land uses would be a step toward balancing the economic and environmental needs of California's urban regions. For example, instead of focusing on where development cannot occur, focus on where it should occur.

2. Revise the current local sales tax allocation.

To prevent each jurisdiction from doing everything it can to attract retail commercial development, often at the expense of alternative land uses, the fiscal effects on land uses could be reduced by distributing a portion of the locally levied sales tax on a basis other than the situs basis as it is now. For example, if in an urban county an increment of the local sales tax was distributed on a countywide basis, this increment could be allocated according to local agreements among the cities and the county based on local needs. A new system for allocating a part of the approximately $4 billion in locally levied sales taxes could go a long way toward ending the competition that has developed over retail commercial development.

3. Clearly define the role of redevelopment.

Redevelopment activities and the role of redevelopment agencies are still controversial. Part of this controversy comes from the agencies' initial charge to eliminate blight—a concept that apparently is very difficult to define. Part of the controversy comes from the difficulty in determining whether the agencies actually increase development, and part stems from the fiscal pass-throughs and indirect (and hidden) state role in their financing. The precise task of redevelopment agencies must be clarified; for example, should they continue to be constrained to deal only with blight or should their mission be broadened to include the stimulation of new economic development.

Arcane Finance Questions and Options

Government needs money to do things, and somehow the money comes in. The system, at least today, does work—but at a cost. This cost is that of confusion—public finance is a mystery to most citizens in California. In the long run, this constellation of confusion and mystery cannot exist without leading to undesirable governance consequences. The inhabitants of California need to have some understanding of how this finance system works. Under the current system, this is nearly impossible.

1. Revise the property tax allocation system.

The property tax allocation system contained in AB 8 needs to be reconsidered in light of the fact that the mix of local agencies and the services they provide and finance is different from what existed when the allocation system was designed 20 years ago (part of this change has occurred, of course, because of the existence of AB 8). Certainly a principal objective of a new system should be simplicity. A more comprehensive solution could be developed if a new property tax allocation system were developed along with a revised sales tax allocation system.

2. Ensure that new debt instruments are understood and issued within reason.

Certificates of Participation, Mello-Roos districts, and other financing instruments are all part of contemporary development finance. People in office should be challenged by voters to explain publicly what they are doing when they vote to issue COPs or allow developers to issue Mello-Roos debt. Legislative actions that issue debt should be publicized and a running total of issued debt should be released to the press after each legislative hearing. However, there is no need to go to the voters every time a new issue is considered. A policy of "reasonableness" is worthwhile in this area.

3. Revise the K-14 finance system by providing more local discretion.

K-14 education is financed in an extremely complex manner. There has been some movement toward simplifying some components of this system through the increased use of block grants, but the system itself is a true "black box." K-14 education finance should be simplified and then explained. The ultimate goal of a reconsideration of the financing mechanisms should be to increase discretion at both the district and individual school levels. To hold the education system accountable for its product without giving it the ability to make choices is inherently unfair. Part of the ability to implement change revolves around financial discretion.

State-Local Finance Questions and Options

State and local governments are entwined in a complex system. There are two aspects of this system that merit attention. One is the control of locally levied taxes by the entity that levies the tax, and the other is the alignment of state programs that need local administration. The latter issue principally involves the state-county relationship.

1. Establish a forum for state-local relations.

There needs to be a formal and public recognition of the financial interdependencies of the state, counties, cities, school districts, and special districts. California should, like a majority of other states, establish an independent State Advisory Commission on Intergovernmental Relations. The California Council on Intergovernmental Relations served such a role until the mid 1970s when it was terminated. This commission could do everything from keeping data in an accessible format to conducting special studies on particular subjects. Any major legislation that has an intergovernmental fiscal aspect should be analyzed by this commission.

In order to continue the sorting out of the state-county relationship, the commission would also serve as a forum to continue the discussion of the "realignment" of state and county financing and program responsibility. In addition, this forum would be the proper place to develop a comprehensive reallocation of state and local government responsibilities. This recommendation is similar to that of the California Constitution Revision Commission, which called for the development and adoption by the legislature of a State-Local Realignment Plan.

2. Enhance local control over local finances.

There is a constant dynamic tension between the state and local governments. In some respects, this benefits the people of California because it ultimately forces each unit of government to justify its actions. However, this tension has also led to a decline in the ability of the governments in California to act for the benefit of residents. Further, residents have become disconnected from the taxes or charges they pay and the local officials spending their money. This situation could be improved by ensuring a greater degree of local autonomy that is still responsive to state goals. Local governments need a revenue source that is stable, predictable, and controllable; and the use of that source must be accountable to the citizens. Before Proposition 13, that source was the property tax. A revenue source for local governments that would better connect the taxpayer and the governmental agency would go a long way toward restoring community-based decisionmaking and mitigate the negative effects of the state-controlled local finance system.

Policy Research Agenda

There is limited research dealing with the growing disconnection between citizens and their governments. If the public finance system is the major determinant of development, if the local finance system is not easily understood, so that it is unclear how taxes and fees are used, and if local governments cannot respond to differing or changing citizen preferences because of state control of local finances, then citizens can easily develop a profound distrust of government. It is not that the voter believes that government is inherently evil; rather, the citizen simply doesn't understand how government relates to the individual and may believe that it is out of control, irrelevant, or unthinking and unperceptive. A research agenda focusing on the effects these unintended consequences have on citizen behaviors should be developed, centered around the following informal questions:

- Does the distrust and constraints faced by elected officials as well as public administrators result from these fiscal effects?

- Is the decline in voting participation rates related to these same effects?
- Are there specific projects that are not undertaken because of the lack of understanding as well as distrust of the finance system?

The unanticipated consequences of Proposition 13 increased the complexity of the public finance system, and the implications of this financial complexity affect our entire system of governance. These implications need to be examined.

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Joint Policy Committee / Regional Planning Program

ITEM 7.3

Date: April 4, 2005

To: Joint Policy Committee

From: Regional Planning Program Director

Subject: Regional Planning Work Program, First Six-Month Progress Report

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At its meeting of September 24, 2004, the JPC approved an initial work program for what was then the joint ABAG-MTC regional planning program. Included in that program was a progress report scheduled for April 2005. This is that report.

As I anticipated in my September report to the JPC, the initial work program has been a learning exercise. No one, no where has had experience with a multi-agency regional planning program quite like this one. The first few months have involved a great deal of exploration: of what is and what is possible. As with most exploration, not all of the paths have led to goldmines, and this is reflected in mixed results relative to some of our initial objectives. However, we now have a much better appreciation of the territory and are positioned for substantial advances over the next few months.

One very pleasant surprise is how well the Joint Policy Committee members have worked together. I have seen few signs of the inter-agency acrimony I was warned to expect. The members of the Committee deserve a great deal of credit for rapidly getting down to the business of regional planning, leaving past conflicts behind.

In the first six-month program, there was a heavy emphasis on the Regional Planning Program Director as the primary staff resource. While the Task Force report which set up the JPC assumed staff contributions from each of the member agencies, we did not want to disrupt work programs in MTC or ABAG that were committed before my arrival. Our expectation was that over time we would build to more joint work program activities, involving fairly substantial resource commitments from the member organizations—but only as previous commitments were completed. We are just now reaching the point where a refocusing of agency efforts is possible.

The first six-month program had eight elements. Progress is reported below relative to the objective for each element.

1. **Objective: Initiate process for local confirmation of the regional vision (Smart Growth Strategy / Regional Livability Footprint Project) and local implementation of a voluntary regional interest statement for major project review**.

   I prepared a draft voluntary regional interest statement for major project review (the *Smart-Growth Checklist*), but an attempt to pursue local confirmation of the regional vision through local planning directors did not work out. Potential participants were unenthusiastic and skeptical, and it became obvious that more was required to get local governments to meaningful commitment.

   As several JPC members have observed, nominal confirmation of the vision will not achieve the level of local commitment which the JPC is seeking and which the region needs. Localities need to buy-in to the vision with actions as well as words. I am, therefore, working with the agency executive directors on a proposal for establishing a capability to make meaningful connections with local governments on the smart-growth initiative and on pursuing the initiative through these connections over a continuing period. This involves explicit recognition that effective pursuit of the vision through local governments cannot be a one-shot deal. There will need to be consistent and vigorous follow-up to support local initiatives and to ensure that smart growth is actually happening. Within resource constraints, we are looking at ways of establishing an assured capacity for an effective local-government connection with continuing follow-through.

2. **Objective: Prepare ABAG-MTC regional planning bill proposals and legislative strategy for 2005-2006 session of the State Legislature.**

   The JPC approved an initial consolidated legislative approach at its September meeting. The expectation was that this approach would not bear fruit until 2006. However, we have identified several bills introduced in 2005 that are consistent with the JPC's directions and upon which we can build. These are being pursued through normal agency legislative channels, but with increased communication among the three member agencies. We have also initiated an informal mechanism to share notes with other Bay Area organizations pursuing smart-growth legislation, and have enhanced our ability to respond to legislative opportunities.

3. **Objective: Provide JPC review and comment on pre-existing MTC or ABAG work program items related to implementation of the Smart Growth Strategy/Regional Livability Footprint Project.**

   The JPC has had an opportunity to review and comment on several member-agency initiatives related to the implementation of the regional smart-growth vision. Principal among these, of course, is MTC's draft Transit-Oriented Development Policy. The JPC has become the central and primary locus of TOD policy review and refinement and is expected to make recommendations to MTC around mid year.

The JPC has also reviewed ABAG's policy-based *Projections 2005* and smart-growth monitoring program and has looked at the implications of smart growth on MTC's transportation modeling results. The JPC has received a presentation on the *Bay Area Ozone Strategy*, upon which it will ultimately have to recommend; and it has taken preparatory looks at the *Regional Transportation Plan* and at new requirements related to the *Regional Housing Needs Determination*. Bill 849 requires that the JPC play a major role in the preparation of all these documents. In anticipation of an eventual need to refine the smart-growth strategy, the Committee has also received a presentation on land-use requirements related to regional goods movement.

4. **Objective: Develop a mechanism and process for regional planning comment on significant projects.**

In December, the JPC received a report describing present and past practices for reviewing and commenting on significant projects, analyzing options for returning to a more active review and comment role, and recommending an initial cautious approach. There was not a consensus on the recommendation, and therefore an alternative tack is required. We are exploring the possibility of testing out a more assertive review and comment model through a few well-selected test cases. These will help us all better understand the role which regional review and comment might play in assisting both the regional interest and local governments.

5. **Objective: Develop a communication strategy to build wider understanding and support for the regional planning vision.**

We have been monitoring the responses to the TOD outreach program and to various other "smart-growth" developments around the region to get a better handle on public information gaps and communication needs. This will assist in building a more informed communication strategy at the appropriate time, which we suspect is sometime after we build a better connection with local governments. We have concluded that those governments have a very important role to play in whatever vision-related public communication we eventually undertake. We have noted that there is a vast amount of smart-growth information out there, much reported in mainstream media. Our task will be to focus on new, value-added communication uniquely motivating for the Bay Area.

In the interim, we have undertaken a few communication efforts to explain the JPC and its role and in that process provide some background on the vision and its rationale. This has mostly consisted of presentations to groups and conferences and an occasional media interview. The JPC web site started out as an afterthought, but now has been reorganized to provide a consistent and reliable source of information about the Joint Policy Committee and its work.

6. **Objective: Assemble implementation tool kit.**

The "tool kit" has grown into a "tool store." After I began to research implementation tools, I quickly realized that there is a wealth of smart-growth resources out there—some even specific to the Bay Area—and we do not need to reinvent or even republish these under our brand. The most helpful thing we can do is provide an intelligent and organized mechanism for accessing the existing resources. I have, therefore, designed a simple interactive database structure that permits one to select and quickly review a list of potentially relevant resources by tool or topic. The structure has been implemented with an initial database that is structured to grow as we discover additional useful resources. I judge this electronic database approach to be much more useful than putting together a standard book, which has a limited shelf life and may or may not have applicability to issues users are facing at any particular moment in time.

Sharing the database among member agencies and with the broader Bay Area planning and development community cannot occur until ABAG completes some improvements to his database-related web-hosting facilities to deal with security issues presented by the database's interactivity. Work on this cannot begin until mid or late summer. In the meantime, I will continue to grow the database and refine its structure. Although sharing the database with others has proven more difficult than I had hoped, it has already benefited other work on, for example, understanding and organizing the existing universe of smart-growth incentives.

7. Objective: Identify areas of focus for regional implementation resources.

This objective has been subsumed under a broader objective of reallocating regional planning resources to serve the joint program The manner in which resources are focused depends on the quantity of resources available to focus. The three executive directors and I are actively discussing the realignment of regional planning resources as mandated by the MTC-ABAG Task Force final report and SB 849. We hope to report back to you soon.

8. Objective: Initiate monitoring and evaluation.

I built a small data set and undertook a study to monitor and evaluate one aspect of the region's implementation of smart growth: this is the production of new, higher-density, multi-family housing. The data set can be updated on a regular basis, and will provide a continuing tool for tracking progress on this important smart-growth variable.

However, I also determined that there is a dearth of readily available administrative data that will help us track many other important, but more subtle aspects of smart growth, particularly between decennial censuses and at a level of detail appropriate to the Vision's "Network of Neighborhoods."

The ABAG Research Department has a preliminary smart-growth monitoring program in place, concentrating at the moment on local-government policy surveys, and will report to the JPC soon on an initiative to improve this program. The ABAG Planning Department has applied for a grant which would permit it to explore the expansion of monitoring with the participation of other Bay Area organizations interested in smart growth and sustainable development.

Second Six Months

While there has been substantial progress, none of the objectives identified in September has been absolutely completed and all remain important to Vision implementation. It is appropriate to continue to maintain these objectives as guideposts for the second six months of the JPC regional planning program. Four priority areas require particular emphasis over the next one-half year:

1. Development of an appropriately resourced and assured capability to work directly with local governments on smart-growth implementation, in association with the resolution of multi-agency resource allocation as required by the ABAG-MTC Task Force final report and SB 849;

2. Completion and initial implementation of the TOD policy;

3. Completion and publication of the on-line database of smart-growth resources;

4. Maximum positive influence over the opportunities provided by new legislation.

Recommendation

I RECOMMEND:

THAT the JPC confirm the above objectives and priorities to guide the second six months of the JPC Regional Planning Program.

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Joint Policy Committee / Regional Planning Program

ITEM 7.4

Date: April 5, 2005

To: Joint Policy Committee

From: Regional Planning Program Director

Subject: Smart-Growth Incentives for Neighborhoods

The Joint Policy Committee has requested information on smart-growth incentives. This memo is the second in a series intended to lay out a framework for understanding and organizing incentives and describing what is presently and potentially available to encourage smart growth. The first memo in the series inventoried incentives applicable to local government. The third will describe encouragements for developers and investors. This current memo deals with what may assist neighborhoods in accepting infill development and associated community change. Together, the three memos will comprise a broad *menu* from which the JPC, its member agencies, and others may explore and choose various incentives to facilitate the smart growth vision.

1. Neighborhoods and Smart Growth

Central to the smart growth idea are infill and redevelopment within existing communities. This kind of compact growth helps the region employ existing infrastructure more efficiently, it reduces potential commute distances, and it supports the continued economic and social health of those existing places—reversing the trend to abandon and throw away older, inner areas. Unfortunately, residents of existing neighborhoods often oppose new development and are successful in defeating proposals before commissions, councils or boards or in discouraging developers from proceeding with their plans. Sometimes community opposition results in litigation, which can be time-consuming and expensive. Projects that are not abandoned may be modified to the point of grossly under-fulfilling their potential to serve smart-growth objectives.

Opposition generally stems from two root causes: (1) fear of displacement as the result of *gentrification*; and (2) a more general fear of change which can be exhibited in a multitude of economic and quality-of-life concerns. The second fear is pejoratively described as *NIMBYism*, though that broad label may at times be too dismissive of genuine issues which should and can be resolved. Effective neighborhood incentives need to address one or both of these causes, depending upon the specifics of the situation.

2. Incentives to Neighborhoods

As with incentives for other actors in the development process, incentives to neighborhoods can be arrayed along a continuum from intangible to tangible. There are some quite tangible incentives available to encourage neighborhoods to accept growth and change, but many of the most effective neighborhood incentives tend toward the intangible end of the continuum. This memo lays a foundation with some of these more intangible incentives and then works up the ladder of tangibility.

2.1 Involvement in the Planning Process

People and communities are generally more accepting of change if they have a role in designing it. Community participation allows residents and businesses to build indigenous neighborhood objectives into the planning and development process, to identify and mitigate potential negative impacts, and to achieve some co-ownership of the results. The plan is not just the developer's plan, or the city's plan, but the community's plan.

Community involvement in the planning process can take a variety of forms and can be arrayed over a broad spectrum of community ownership. In the context of contemporary open government, minimum community ownership is achieved by the ability to react and comment. A more meaningful, medium level of shared buy-in is achieved by inviting people to participate in a structured planning exercise, such as visioning and goal-setting sessions or design charettes. Maximum ownership is attained when communities are given some control over the planning process through an institutional mechanism like a neighborhood planning committee, which may oversee the entire process and make formal recommendations to decision makers. The last alternative permits the most in-depth discussion and informed negotiation of plan options.

The last alternative, a structured committee process, is also the most time-consuming and is frequently perceived as the most risky, because it requires some sharing of control. However, all levels of neighborhood involvement include some element of risk. The character of the risk varies as well as the magnitude. Minimum community involvement and minimum co-ownership of the planning process may result in a binary, all-or-nothing risk situation. The plan or project will either proceed or not, depending on the persuasive or political powers of opposing sides. In the negotiated result more typical of a good planning-committee process, neither side gets everything it wants, but there is a compromise respectful of both community and extra-community objectives.

Good neighborhood planning requires very careful organization. All participants must clearly understand and accept their role in decision-making (particularly acknowledging who is responsible for the ultimate decision—usually a duly elected local council or board); and all relevant interests must be effectively represented around the table, not just present local interests, but also city-wide and regional interests which may have a longer-term stake in the outcome.

The benefits of community involvement in planning are explicitly recognized by MTC's TLC program, which requires as a first criterion that projects "are developed through a collaborative and inclusive planning process that includes broad partnerships among a variety of stakeholders."

2.2 Information

Neighborhoods frequently worry about the negatives which new development will bring: increased traffic congestion; more parking on the streets; pressure on schools, parks, recreation centers and other neighborhood infrastructure; reduced property values (or increased rents); reduced privacy and loss of sunlight access as the result of higher, larger buildings; decreased safety and security because of more and different people. Some of these worries are real, others are mythical. Some concerns are invented as proxies for baser, socially unacceptable fears that are seldom uttered.

Within this context, a lot of information will be greeted with skepticism, some will be dismissed, and much will be ignored. Nevertheless, the proponents of change are best advised to provide as much objective information about the impact of change as they can. This will help feed intelligent debate and allow the un-predisposed to make up their minds with more confidence than otherwise. Information has both intrinsic and symbolic value: it informs the decision and it exhibits sensitivity to neighborhood issues.

2.3 Incidental benefits

One specific class of information relates to the spillover benefits which new development can provide to surrounding and adjacent neighborhoods. Depending on the scale of infill or redevelopment, these can be substantial and might include:

- Increased market for existing and new stores, shops, theaters and restaurants (from which existing, as well as new residents can benefit);
- New jobs which can be filled by existing residents and their children;
- More foot traffic and eyes on the street, which can help improve perceived and real safety;
- New students that can help keep a neighborhood school open;
- New transit riders that can help justify a higher frequency of service;
- Neighborhood image and proximity effects, which may buoy up the values of all neighborhood properties;
- A generally more diverse and interesting place in which to live and interact.

2.4 New neighborhood amenities and infrastructure

New development is frequently required by CEQA and by local regulations to mitigate its impacts on the surrounding area. Public and private investment in association with new development may also be used to ameliorate undesirable conditions which existed before the development or simply to provide new amenities and other goods that make the change more palatable to the broader neighborhood. Among the enhancements which new development may provide to its surrounding neighborhood are:

- Open space, developed parks and other recreation and cultural facilities;
- New sidewalks and better pedestrian and bicycle connections, particularly to transit;
- Attractive street furniture, new pavement, street trees and landscaping, and improved street lighting.

2.5 Displacement mitigation

At the heart of the gentrification issue is the fear that the rising tide will not float all boats equally; that existing residents and businesses will not gain from neighborhood improvement but instead will be forced out by those able and willing to pay higher prices for newly improved or revalued properties. While not perfect, some mechanisms are available to assist those with lower incomes stay in the neighborhood and benefit along with new residents and businesses. Among these are:

- A municipal requirement that developers provide an allocation of replacement housing at affordable rents or ownership costs;
- Location-efficient mortgages, which permit those with easy access to transit to qualify for higher mortgages by virtue of the fact that they require a lower percentage of their income for automobile commuting expenses;
- Modification of zoning ordinances to permit secondary, accessory units; providing lower-cost accommodation for renters along with mortgage helpers for lower-income homeowners;
- Tax abatements or deferrals for long-time homeowners, reducing the possibility that high property taxes will force sales and move-outs (In California, one of the few advantages of Proposition 13 is its mitigating impact on tax-driven displacement);
- Performance-based building codes which encourage the cost-efficient rehabilitation of existing units over replacement or abandonment;
- The use of Community Development Block Grants (CDBG) and other government subsidies for housing investments and revitalization efforts targeted to low-income residents in existing neighborhoods;
- Linked deposits for housing rehabilitation, wherein local government accepts a lower-interest on some of its bank deposits in turn for banks issuing lower-interest loans to assist housing rehabilitation in the community;

- Community land trusts, where non-profits own the land and home-owners purchase only the improvements, thus reducing the cost of home ownership;

- Non-profit, community-based development corporations, which accept lower than market returns in exchange for the ability to pursue community economic- and social-development objectives.

2.6 Development participation

Land trusts and community-based development corporations point to an emerging but very tangible class of incentives: direct community participation in the economic benefits, even the profits, of development. While community-based development has been most prevalent as a bootstrap technique in lower-income neighborhoods, there are a few examples of neighborhood partnerships pursuing development profits in more affluent communities.

A few neighborhoods have organized property pools, wherein neighbors join their parcels together to create an attractive development site for higher density. The neighbors, rather than a developer, then reap the land-value increment resulting from assembly.

While principally used to date to help preserve historic landmarks, open spaces and other community assets, transfer of development rights (TDR) might also be used to help neighbors preserve their existing homes while participating directly in the financial results of higher-density development. It might work something like this:

- the local government provides a small increment of zoned density across a broad neighborhood area (for example, the permitted floor area ratio (FAR) is increased from 0.6 to 0.8 in area where most homes are already developed to 0.6);

- the local zoning also permits property owners to transfer all or part of their incremental density (in square feet) to a recipient site and for that site to amass density up to a designated maximum (say 2.0);

- the owner of the recipient site compensates the owners of donor sites at a market rate per developable square foot;

- the recipient site is developed at an incrementally higher density than the surrounding neighborhood, with existing owners reaping direct financial benefit.

Obviously this kind of incentive cannot be implemented casually. Without a great deal of care, it could set up a destructive dynamic among neighbors, particularly if some neighbors chose to participate in the transfer scheme and others did not. Depending on one's position or perspective in the development process, it could be perceived as either blackmail or bribery. And the distribution of recipient and donor sites would have to be subject to a meticulous land-use plan. However, in the context of an inclusive, consensus-based plan, a cautious and limited TDR scheme may be an effective means of creating more neighborhood winners and fewer perceived losers in the redevelopment game.

3. Conclusion

A number of incentives are available to help neighborhoods accept infill, redevelopment and associated change. By far the most effective and least paternalistic are those which the neighborhood designs for itself through a challenging, inclusive planning process. The JPC has already gone on record in support of state funding for specific plans, and the draft TOD policy proposes the use of MTC TLC funds for specific plans around transit stations. A well-planned community, planned with existing community residents and businesses but also mindful of future regional needs, may be its own highest incentive.